

CR-2952-2023 (O&M)

114

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-2952-2023 (O&M)

Date of decision: May 12, 2023

Markfed Bathinda

....Petitioner

versus

Murti Devi and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. A.P.S. Sekhon, Advocate for the petitioner.

ARUN MONGA, J. (ORAL)

Petition herein *inter alia* is for setting aside impugned order dated 19.01.2023 (Annexure P-1) passed by learned Civil Judge (Junior Division), Bathinda whereby objections filed by judgment-debtor/petitioner against attachment, were dismissed.

2. The revision petition is premised on the averments that respondents No.1 to 4-plaintiffs filed suit for declaration that they were legal heirs of deceased Jagdamba Parsad and were entitled to retirement-cum-death benefits, EPF, Pension, Gratuity, Leave Encashment and 5 months' salary of the deceased along with interest @ 18% per annum from the date of death and interest on balance amount as well as on delayed amount; they also sought mandatory injunction for release of death-cum-retirement benefits to legal heirs of deceased.

2.1. Vide judgment/ decree dated 26.04.2013, suit of the plaintiffs was decreed and they were held entitled to retirement-cum-death benefits except pension along with 12% interest on delayed payment and also for mandatory injunction to release the benefit. Appeal filed by petitioner was dismissed with costs vide judgment/ decree dated 09.08.2016.

CR-2952-2023 (O&M)

2.2. Plaintiffs-decree holders filed execution. Judgment debtors filed objections, which were dismissed by learned Civil Judge (Junior Division), Bathinda vide impugned order dated 19.01.2013 (Annexure P-1).

3. Learned counsel for petitioner contends that full and final gratuity amount was paid to respondents No.1 to 4 vide cheque dated 07.12.2017. He would further contend that respondents No.1 to 4-decreeholders wrongly calculated amount of Rs.1,80,400/- on account of EPF and interest thereon, which was in fact only Rs.65,769/-, for which Rs.10,000/- was paid to respondent-decree holders vide cheque dated 07.07.2005. He would also urge that EPF is payable only if employees strength is more than 20, as against only four employees working in the co-operative marketing society. He would further submit that entire amount of Rs.42,898/- has been paid and nothing is left due to respondents No.1 to 4-decree holders.

4. I have heard learned counsel for petitioner and perused the record as well as impugned order.

5. Impugned order dated 09.01.2023 passed by learned Civil Judge (Junior Division), Bathinda, is premised, *inter alia*, on the following reasoning:

“4. The perusal of the record shows that the objections detailed herein by the JD have already been dealt with in the decree passed by the trial Court and then by learned Appellate Court also. This Court being the executing Court cannot go beyond the decree and hence, objections stands dismissed.”

6. Arguments before me by learned counsel for petitioner are essentially factual narrative as noted hereinabove. All the contentions have already been noted in greater details but rejected by the learned Trial Court and First Appellate Court. Same have been reiterated even before this Court. It seems that having failed to convince the learned trial Court and First Appellate Court on the stand taken before them, petitioner-judgment debtor has now taken same defence before the Executing Court by way of filing objection petition. The duty of learned Executing Court is to execute judgment/ decree in letter and spirit. Objections since taken by judgment debtor/ petitioner herein have already been dealt with and rejected on merits by learned trial

CR-2952-2023 (O&M)

Court as well as learned Appellate Court. In any case, it is not for the Executing Court to go behind the decree and open the case on merits *de novo*. The objection petition has rightly been dismissed.

- 7. There is no room for interference in the aforesaid valid reasons recorded by learned Court below.
- 8. No material irregularity in law or procedure has been committed by learned Court below, so as to exercise extraordinary revisional jurisdiction herein.
- 9. Dismissed.
- 10. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

May 12, 2023
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No