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IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH.

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Date of Decision: 24.01.2024.

M/s Prakash Engineer's Traders and another

...Petitioners.

Versus

M/s Shree Enterprises

....Respondent.

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**CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR**

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**Present:** Mr. Pranshul Dhull, Advocate  
for the petitioners.

Mr. Abhishek Jindal, Advocate  
for the respondent.

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**Sukhvinder Kaur, J.**

By way of present revision petition, the petitioners have challenged order dated 21.11.2023 (Annexure P-1) passed by learned trial Court, vide which the objections filed by the Judgment Debtor have been dismissed.

2. The brief facts are that respondent/ plaintiff originally filed a Civil Suit No.89 of 2017 for recovery for a sum of Rs.10,00,000/- against the present petitioners/ defendants which was decreed in favour of the respondent/ plaintiff vide judgment and decree dated 25.01.2018 passed by Civil Judge (Junior Division), Gurgaon. Thereafter, petitioners challenged the said judgment and decree vide Civil Appeal No.112 of 2017 which was

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dismissed by learned Additional District Judge, Gurugram, vide order dated 10.04.2018 due to non filing of the proper Court fee in the said appeal.

3. In the meantime, the respondent/ decree holder filed Execution Petition bearing No.EXE/146/2018 against the present petitioners/ judgment debtors. Thereafter, the present petitioners filed an application for restoration of the said appeal before the learned Additional District Judge, Gurugram, but it was dismissed, vide order dated 03.04.2019. A Civil Revision No.3066 of 2019 was filed before this Court, which was also dismissed, vide order dated 17.05.2019. The petitioners approached the Hon'ble Supreme Court challenging the same vide SLP (Civil) 17624 of 2019 and vide order dated 02.08.2019, notice of motion was issued and the execution proceedings before the Civil Judge were stayed but the said SLP was ultimately dismissed by the Hon'ble Supreme Court, vide order dated 06.01.2023.

4. It was claimed by the petitioners that all the petitioners had made a total payment of Rs.11,00,000/- against the principal amount of Rs.10,00,000/- and the only amount due to be paid was towards the interest amount payable during the period in which the Hon'ble Supreme Court had stayed the proceedings before the Executing Court and the period during which there was an outbreak of Covid-19 Pandemic.

5. The objections of the petitioners were dismissed and vide impugned order dated 21.11.2023. The Executing Court directed the petitioners to pay sum of Rs.4,26,810/- alongwith interest for the period from 21.10.2023 to 04.12.2023 @ 9% per annum which comes to

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Rs.4,73,583/-, failing which the Executing Court shall be constrained to take coercive action for recovery of the above said amount.

6. Aggrieved by the impugned order dated 21.11.2023, the present revision petition has been filed.

7. Learned counsel for the petitioners has contended that the Executing Court has not taken into consideration the fact that the petitioners had paid over and above the principal amount and also did not give any weightage to the bonafide contention of the petitioners that the interest ought to be exempted during the operation of stay by the Hon'ble Supreme Court as well as the extraordinary circumstances posed due to the outbreak of the pandemic and wrongly, dismissed the objections of the petitioners vide the impugned order dated 21.11.2023.

8. I have heard learned counsel for the petitioners and have gone through the relevant record.

9. The perusal of the impugned order reveals that it has been mentioned therein that the calculation sheet showing the outstanding amount of Rs.4,26,810/- has not been disputed and only it was disputed that since the matter remained pending before the Hon'ble Supreme Court and there was stay of execution of the decree in question so judgment debtors were not liable to make payment of interest during the said period and the period during which there was an outbreak of Covid-19 Pandemic.

10. It has been held by the Hon'ble Supreme Court in **State of U.P. through Secretary and others Vs. Prem Chopra, 2022 Live Law (SC) 378** that “once proceedings, where stay was granted, are dismissed, any interim

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order granted earlier merges with final order.”

11. It was further held therein that “from the above discussion, it is clear that imposition of a stay on the operation of an order means that the order which has been stayed would not be operative from the date of passing of the stay order. However, it does not mean that the stayed order is wiped out from the existence, unless it is quashed. Once the proceedings, wherein a stay was granted, are dismissed, any interim order granted earlier merges with the final order. In other words, the interim order comes to an end with the dismissal of the proceedings. In such a situation, it is the duty of the Court to put the parties in the same position they would have been but for the interim order of the court, unless the order granting interim stay or final order dismissing the proceedings specifies otherwise. On the dismissal of the proceedings or vacation of the interim order, the beneficiary of the interim order shall have to pay interest on the amount withheld or not paid by virtue of the interim order”. In the instant case also, when the said SLP was ultimately dismissed by the Hon'ble Supreme Court vide order dated 06.01.2023, the interim order of Supreme Court dated 02.08.2019 merged with the final order.

12. No counter case law has been produced by the counsel for the petitioners to substantiate their contention that the judgment debtors are liable to make payment of interest during the period of stay of the execution petition before the Hon'ble Supreme Court and the Covid period.

13. Thus, there being no illegality or infirmity in the impugned order and no interference therewith is called for, while exercising the

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revisional jurisdiction. The present revision petition being bereft of any merits stands dismissed.

14. All pending applications, if any, also stand disposed of accordingly.

(SUKHVINDER KAUR)  
JUDGE

24.01.2024.  
*komal*

Whether speaking/ reasoned : Yes/ No  
Whether Reportable : Yes/ No