

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CR-1079-2024 (O&M)
Date of decision: 22.02.2024

The Managing Director, the Haryana State Federation of Consumers Co-operative Wholesale Stores Limited, (Confed), Panchkula.

...Petitioner

VERSUS

M/s Bansal Rice Mills, Bilaspur, Yamuna Nagar

...Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :- Mr. Piyush Bansal, Advocate for the petitioner.

VINOD S. BHARDWAJ, J. (Oral)

1. Challenge in the present petition is to the orders dated 30.01.2024 and 12.02.2024 passed by the Civil Judge (Jr. Divn.), Jagadhari, whereby the application preferred by the petitioner under Order 21 Rule 26 of the Code of Civil Procedure, 1908 for staying the proceedings of execution has been dismissed and the warrants of attachment of property of the petitioner had been issued on 12.02.2024 for 20.02.2024.

2. It is not in dispute that the arbitration award was passed against the petitioner-Federation on 11.10.2017 against which the objections were preferred under Section 34 of the Arbitration and Conciliation Act, 1996. The said objections were also dismissed by the Court on 24.07.2023 resulting in filing of the FAO No.5274 of 2023. The award passed by the Arbitrator and the dismissal of objections by the Additional District Judge

were upheld and the First Appeal was dismissed by this Court vide judgment dated 16.10.2023.

3. Learned counsel for the petitioner contends that thereafter SLP vide Diary No.721 of 2024 has been submitted on 04.01.2024 against the award as well as the orders passed thereafter and the same is yet to be listed. In the meanwhile, the respondent/decreed-holder has preferred an execution petition before the Civil Judge (Jr. Divn.), Jagadhari. During the pendency of the said execution petition, an application under Order 21 Rule 26 of CPC had been filed by the petitioner seeking stay on the proceedings, however, vide impugned order dated 30.01.2024 (Annexure P-5), the same was dismissed. Further, a warrant of attachment of properties of the petitioner-federation has also been passed by the Executing Court on 12.02.2024 (Annexure P-6). He vehemently argued that since the SLP filed by the petitioner is yet to be listed, the execution proceedings ought to have been stayed and that the order passed by the Executing Court dismissing the application filed under Order 21 Rule 26 of CPC is cryptic and non-speaking.

4. Heaving heard the learned counsel appearing on behalf of the petitioner and having gone through the order under challenge, it is evident that the Executing Court has specifically recorded that there is no stay against execution of the award, passed by the Hon'ble Supreme Court or by any other competent authority.

5. It is well settled position in law that a mere institution of SLP before the Hon'ble Supreme Court would not *ipso facto* entitle the judgment

debtor-petitioner (herein) to seek stay on the proceedings of the execution that have been instituted. The case in hand is an action plan case for the year 2023-24 and is yet to be executed despite a lapse of 7 years since the passing of award. I do not find any illegality in the order passed by the Executing Court. Learned counsel for the petitioner has also failed to refer to any provision in law or by judicial interpretation under which an execution ought to be stayed on filing of an SLP.

6. Finding no perversity or illegality in the order passed by the Executing Court, the present revision petition is dismissed.

22.02.2024
Mangal Singh

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No