



CR-4263 of 2023 (O&M)

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CR-4263 of 2023 (O&M)

Decided on: 17.09.2024

Nirbhay Singh**...Petitioner**

Versus

Manjit Kaur and others**...Respondents****CORAM: HON'BLE MRS JUSTICE RITU TAGORE**

Present: Mr. Devinder Pal Singh, Advocate (through V.C.)
for the petitioner.

RITU TAGORE, J.

1. This revision is directed against the order dated 20.05.2023 (Annexure P-10), passed by Learned Civil Judge (Jr. Division), Patiala in the Execution Petition No. 44 of 2020, titled as 'Manjit Kaur and others Vs. Punjab State Power Corporation Ltd and another'.

2. Learned counsel submits that petitioner is the uncle and caretaker of Kala Singh @ Amandeep Singh, respondent No.3 and also provides for his maintenance. It is stated that respondents No. 1 to 6, filed a suit against respondents No. 7 and 8 for compensation for the death of Hakam Singh S/o Rulda Singh R/o VPO Bararhwal, Tehsil Dhuri, District Sangrur. The said suit was decreed vide judgment and decree dated 16.05.2019 (Annexures P-1 and P-2). The respondents No. 1 to 6 thereafter



filed Execution Petition No. 44 (Annexure P-3), in which impugned order was passed.

3. Learned counsel submits that respondent No.1 is the stepmother of respondent No.3 Kala Singh @ Amandeep Singh, who in order to obtain a decree in her favour, she portrayed herself as natural guardian and caretaker of respondent No.3, alleging him to be of simple-minded person, without providing proof of this claim. It is stated that, in fact, respondent No.1, ousted respondent No.3, her step-son, after the death of his father, Hakam Singh. Respondent No 3, being a person of simple mind, was taken care of by the petitioner, his uncle.

4. Learned counsel further submits that learned Executing Court passed the order dated 20.05.2022 (Annexure P-4), directing Manjit Kaur, respondent No.1, to deposit Rs.1,84,687/- as fixed deposit in the name of Kala Singh @ Amandeep Singh, respondent No.3. According to respondent No.1,'s version in the application dated 01.07.2022 (Annexure P-5), she complied with the order (*ibid*) by depositing the amount of Rs.1,84,687/-in the name of Kala Singh @ Amandeep Singh, respondent No.3.However, the petitioner brought Kala Singh @ Amandeep Singh, respondent No.3 with him, and without any authority, illegally released the amount thereby defrauding respondent No3, a simple and weak understanding person.

5. It is contended by learned counsel for the petitioner, in fact, respondent No.3 Kala Singh @ Amandeep Singh, is a simple minded person and not of unsound mind, went to bank alongwith petitioner, withdrew the amount of fixed deposit and bank authorities let him withdraw the money in absence of any order to the contrary passed by any Court of competent



jurisdiction commenting upon the mental capacity of respondent No.3 or appointment of his guardian. Learned counsel submits that petitioner in no manner has defrauded any person much less respondent No.3. The petitioner is a *defacto* guardian of respondent No.3, who is under his care.

6. Learned counsel for the petitioner submits that the learned Executing Court erred in passing the impugned order by exceeding the scope of the decree and entertaining a new cause of action against the person, who is neither a judgment debtor nor a decree holder, but a stranger to the execution proceedings. Learned counsel submits that learned Executing Court was not competent to adjudicate upon the acts allegedly committed after the completion of the decree's execution. It is stated that the directions given by learned Executing Court to prepare a fixed deposit (FD), were not mandated in the judgment and decree (Annexures P-1 and P-2), and as such the learned trial Court travelled beyond the scope of the decree by issuing such directions without obtaining any evidence regarding the mental incapacity of Kala Singh @ Amandeep Singh, respondent No.3. Further, the alleged embezzlement/misappropriation of money could not have been brought within the ambit of the Executing Court. Learned counsel submits that the order dated 20.05.2023 (Annexure P-10) is clearly indefensible in the eyes of law and should be set aside.

7. I have heard learned counsel for the petitioner and perused the paper book with his valuable assistance.

8. It is not in dispute that respondents No. 1 and respondents 2 to 6, through respondent No 1 as their natural guardian, instituted a civil suit for compensation for the death of Hakam Singh against respondents No. 7



and 8, which was decreed by the Court vide judgment and decree dated 16.05.2019 (Annexures P-1 and P-2). The petitioner was not party in that suit. It is unchallenged that decree-holders (respondents No. 1 to 6) filed an Execution Petition (Annexure P-3), for implementation of the decree (Annexure P-2). As explicit from the order dated 20.05.2022 (Annexure P-4) passed in execution petition, Manjit Kaur, the respondents No. 1, being mother and natural guardian, received the amount on behalf of other decree holders including Kala Singh @ Amandeep Singh, respondent No.3. The order further indicates that respondent No.1-Manjit Kaur was directed to deposit the amount of Rs.1,84,687/- pertaining to the share of Kala Singh @ Amandeep Singh, respondent No.3, in a fixed deposit in nationalized bank for the period of five years with further direction to deposit the copy of fixed deposit (FD) in the Court and posted the case for 01.07.2022 for further proceedings.

9. Further, it is apparent from the record, Manjit Kaur, respondent No 1, filed an application (Annexure P-5) before the learned Executing Court, stating that in compliance with the Court's order, she deposited the cheque with the bank. The bank accepted the same and informed her to wait for preparation of fixed deposit, after clearance of cheque. On her asking about the fixed deposit (FD), she was informed that petitioner alongwith Kala Singh @ Amandeep Singh, respondent No.3, obtained the fixed deposit of Rs.1,60,000/- and remaining amount of Rs.24,687/- were taken by the petitioner. In her application, she alleged that the petitioner withdrew the amount belonging to Kala Singh @ Amandeep Singh respondent No 3



without authorization and appropriate action be taken against both the petitioner and the bank official.

10. Upon notice of the application (Annexure P-5), petitioner appeared, filed the reply and admitted that he took the money for spending the same on the welfare of respondent No.3, who is under his *defacto* custody. Before this Court, petitioner appeared and suffered a statement that he used the amount of Rs.1,84,687/-.

11. Keeping all these undisputed facts, this Court is of the considered opinion that learned Executing Court has rightly passed the order dated 20.05.2023 (Annexure P-10), directing petitioner to deposit the amount pertaining to the share of respondent No.3, in compliance of the directions of the Court. As noted, vide order dated 20.05.2022 (Annexure P-3), the decree holder, Manjit Kaur was to prepare a fixed deposit of the share of Kala Singh @ Amandeep Singh, respondent No.3 for a period of five years and was directed to place the copy of FDR on record. Before she could comply with these directions, the petitioner without any authority or order from any Court of competent jurisdiction, withdrew the amount in violation of the order dated 20.05.2022 (Annexure P-3), alleging him as a *defacto* guardian of respondent No.3. The petitioner's assertions are self-contradictory regarding the respondent No.3's mental capability. Nonetheless, he admits that respondent No.3 is a simple-minded person. The petitioner thus knew that respondent No.3 did not have the necessary rational understanding to handle financial matters. Consequently, the petitioner illegally and without any lawful authority and order from the Court, dealt with the amount of respondent No.3 and bypassed the implementation/execution of the decree.



12. It is true that an Executing Court cannot go behind the decree under execution. But that does not mean that it has no duty to find out the true effect of the decree. For construing a decree, it can and in appropriate cases, ought to take into consideration the pleadings as well as proceedings leading up to the decree. In order to find out the meaning of the words employed in a decree; the Court often has to ascertain the circumstances under which those words came to be used. That is the plain duty of the learned Executing Court and if the Court fails to discharge that duty, it has plainly failed to exercise the jurisdiction vested in it. The jurisdiction of the Court does not begin and end with merely looking at the decree as it is finally drafted. The learned Executing Court is empowered to construe the decree, for its full and meaningful implementation. Thus, the contention of the learned counsel for the petitioner, that the learned Executing Court, could not have ordered for depositing the amount of share of respondent No.3, cannot be countenanced so as to limit the power of the learned Executing Court to implement the decree. Further, the petitioner failed to show that he had any lawful authority to deal with the money of the respondent No.3. Rather, he violated the decree as no authority was given to him to deal with the money granted to respondent No 3 by virtue of the decree, Annexure P-3. In these circumstances, to do complete justice and for full compliance of decree, the learned Executing Court has rightly passed the order. Thus, the argument presented by the learned counsel for the petitioner that the learned executing court could not have issued the directions to the petitioner, who was not party to the suit or execution proceedings, and to the actions occurring after the conclusion of the execution proceedings lacks merits. The court



possesses plenary powers to undertake all necessary measures against those individuals who were not involved in the original proceedings, to ensure the effective implementation of the judgment and decree or any order(s). Further, the Court is authorized to address any irregularity or action(s) committed by any person aimed at obstructing the enforcement of lawful orders. In the present case, the execution proceedings had not yet culminated as the respondent No 1 was required to place on record the copy of the FD, showing the deposit in the name of respondent No 3 and before that petitioner withdrew the amount belonging to the respondent No 3.

13. As a sequel to the foregoing discussion, it is held that the learned trial Court has rightly exercise the jurisdiction that vested in it and the order does not suffer from any illegality, irregularity, infirmity or perversity so as to warrant any intervention by this Court.

14. Resultantly, the revision petition is dismissed.

15. Pending application(s), if any, shall also stand disposed of.

(RITU TAGORE)
JUDGE

17.09.2024

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