



CWP-21751-2024

-1-

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

129

CWP-21751-2024

Date of decision: 02.09.2024

SHAM LAL

...PETITIONER

Vs.

STATE OF PUNJAB AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Davinder Lubana, Advocate
for the petitioner.

JAGMOHAN BANSAL, J (ORAL)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of Compromise dated 18.05.2019 (Annexure P-15) executed between petitioner and respondents before the Medication and Conciliation Centre, Ludhiana. He is further seeking direction to reinstate him with full back wages.

2. The petitioner for 18 years worked with M/s Gupta Spinning and Weaving Mills, Ludhiana. He was getting salary to the tune of Rs. 2500/- per month. The said firm was a partnership firm and it terminated services of petitioner on 11.10.2004.

3. The petitioner approached Labour Court, Ludhiana which vide Award dated 24.05.2006 (Annexure P-1) directed the Management to reinstate him with continuity of service and full back wages from the date of demand. The Management did not implement the aforesaid Award. Thus, petitioner filed execution application.

4. The matter was referred to the Mediation and Conciliation Centre, Ludhiana. The petitioner before Mediator accepted 6 cheques from judgment



debtor towards outstanding liability of M/s Gupta Spinning and Weaving Mills. The extracts of compromise deed executed dated 18.05.2019 are reproduced as below:-

“This agreement of settlement has been executed on 18th day of May, 2019 between Sham Lal and M/s. Gupta Spinning and Weaving Mills through its authorized signatory Sh. Puneet Goyal. Whereas some issues has been arose between the parties.

The dispute has been sent for mediation by the referred Court and undersigned the mediator to whom it has been referred this dispute, facilitated the parties to reach out and amicable settlement after having joint and single succession. As per free consents of parties to dispute the following terms and conditions have been agreed by both the parties and same has been reduced to writing as under:-

1. That Sham lal has received full and final amount through various cheques (6 cheques) which was outstanding Against M/S. Gupta spinning and weaving mills, from sh. Puneet goyal, authorised signatory of M/s. Gupta spinning and weaving mills. Now nothing is due against M/s. Gupta spinning and weaving mills. Sham lal will withdraw the present execution against M/s. Gupta spinning and weaving mills from the hon'ble court and will not file any suit against M/s. Gupta spinning and weaving mills in future in any court of india.

The contents of this agreement have been explained to both the parties and after understanding the terms & conditions of this agreement parties signed on it.”

5. The petitioner made a statement before the Executing Court that he has settled his claim with one partner of the firm whereas his claim against other partners is still pending. The Executing Court vide order dated 15.10.2022 (Annexure P-24) dismissed execution application and allowed different applications filed by judgment debtors. It would be apt to mention here that on the application of petitioner, the Executing Court at one stage had issued conditional warrants against partners of aforesaid firm and they filed application before

**CWP-21751-2024**

-3-

Executing Court seeking recalling of conditional warrants. The Executing Court has allowed application of partners of aforesaid firm seeking recalling of conditional warrants and dismissed execution application of petitioner.

6. Mr. Davinder Lubana, Advocate submits that settlement was arrived at a sum of Rs. 4,50,000/- whereas petitioner received Rs. 1,50,000/- through 6 cheques as mentioned in the compromise executed between the parties. In the compromise-deed, the amount of cheques was not mentioned. The petitioner has not made full and final settlement with all the partners. The settlement was with one of the partners of the firm and remaining amount was to be recovered from other partners of the firm. The Executing Court has wrongly dismissed execution application of the petitioner and recalled conditional warrants.

7. I have heard counsel for the petitioner and with his able assistance perused the record.

8. From the perusal of record, it is evident that compromise was arrived at between the parties. The said compromise was not executed in the office of petitioner or respondents whereas it was executed before a Mediator appointed by Court. In the compromise-deed it was specifically mentioned that liability against M/s Gupta Spinning and Weaving Mills, Ludhiana stands settled and execution application will be withdrawn by decree holder. M/s Gupta Spinning and Weaving Mills was a partnership firm. The liability of partners was joint as well as several. The petitioner in the compromise-deed conceded that nothing is due against M/s Gupta Spinning and Weaving Mills and execution will be withdrawn against M/s Gupta Spinning and Weaving Mills. Once the matter is settled with M/s Gupta Spinning and Weaving Mills i.e. judgment debtor, there was no question of recovery or execution against partners. The Award dated 24.05.2006 was passed against M/s Gupta Spinning and Weaving Mills i.e. partnership firm. The execution was filed against M/s Gupta Spinning and Weaving Mills. As soon as matter was



settled with M/s Gupta Spinning and Weaving Mills, there was no question to continue the proceedings. The liability of partners exists only if it is not discharged by firm itself. Once liability is settled by firm, there is no question of liability of individual partners.

9. There is another aspect of the matter. The compromise was executed in 2019 and impugned order was passed in October’ 2022 and present petition has been filed in 2024. The petitioner remained silent for 2 years’ even from the date of dismissal of execution application.

10. In the wake of above discussion and findings, this Court is of the considered opinion that the present petition deserves to be dismissed and accordingly dismissed.

02.09.2024
manoj

[JAGMOHAN BANSAL]
JUDGE

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