

2024:PHHC:008927

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CR No.7753 of 2023 (O&M)
Date of Decision: 22.01.2024

Zila Parishad, Yamunanagar
...Petitioner

Versus

Anupama and others
...Respondents

CORAM: HON’BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Argued by:- Mr. Jitender S. Chahal, Advocate
for the petitioner.

MEENAKSHI I. MEHTA, J.

By filing the instant revision-petition under Article 227 of the Constitution of India, the petitioner-Judgment Debtor No.3 (here-in-after to be referred as ‘JD No.3’) has laid challenge to the order (Annexure P-1) passed by learned Civil Judge (Junior Division), Yamuna Nagar at Jagadhri (for short ‘the Executing Court’) on 27.07.2023 in ***Execution Petition No. 100 of 2020*** titled as ‘***Anupama versus State of Haryana and others***’, whereby the application (Annexure P-5), as moved by it for seeking the dismissal of the execution proceedings as well as for raising the objections qua the afore-referred Execution Petition, has been dismissed.

2. I have heard learned counsel for the petitioner-JD No.3 in the present revision-petition, at the preliminary stage and have also perused the file carefully.
3. Learned counsel for JD No.3 has contended that in the judgment and decree as passed by the trial Court in the Civil Suit filed by

respondent No.1-plaintiff-Decree Holder (here-in-after to be referred as 'the DH') and also in the judgment and decree handed down by the Lower Appellate Court in the appeal, upholding the judgment and decree of the trial Court, it has nowhere been specified as to who out of the defendants, is liable to pay the *mesne-profits* to the plaintiff and it being so, the decree passed by the trial Court, is not executable. To buttress his contention, he has placed reliance upon the judgment rendered by the Apex Court in ***The State of Madhya Pradesh vs. Mangilal Sharma, Civil Appeal No.3237 of 1990, decided on 18.12.1997 (Law Finder DocId # 18372).***

4. However, the above-raised contention is devoid of any merit because though, while decreeing the afore-referred Civil Suit, the trial Court has held the DH to be entitled for the *mesne-profits* and has not specifically saddled any of the defendants with the liability to pay the above-mentioned amount but it is pertinent to mention here that the DH had filed the afore-said Suit for seeking a decree for the delivery/handing over of the actual, physical and vacant possession of the suit land by defendants No.1 to 3, to her and defendants No.4 to 7, after the removal of the debris therefrom and had also claimed the *mesne-profits* @ Rs.10,000/- per month along-with the interest thereon, meaning thereby that she (DH) had sought the above-discussed reliefs against JDs No.1 to 3 only and it is well-settled that it is the discretion of the DH to seek the execution of the decree against any of the Judgment-Debtors.

5. The observations, as made by Hon'ble Supreme Court in ***The State of Madhya Pradesh (supra)***, are of no avail to JD No.3 as the facts

and circumstances of the afore-said case are distinguishable from those of the present one. In the above-cited case, the plaintiff had obtained a decree for declaration that he was assumed to be continuing in service but he had omitted to claim any consequential relief and therefore, it was held by the Apex Court that mere declaratory decree was not executable as it did not in terms, direct the Judgment-Debtor to do or not to do something, but merely declared the status of the parties and that the plaintiff could not claim the arrears of salary for the period he did not discharge any duties, merely on the basis of declaration that he was assumed to be continuing in service whereas in the instant case, the DH has specifically claimed the *mesne-profits* besides seeking the relief of possession of the suit land.

6. As a sequel to the fore-going discussion, it follows that the impugned order does not suffer from any illegality, irregularity, infirmity or perversity so as to warrant any interference by this Court. Resultantly, the revision-petition in hand, being *sans* any merit, stands dismissed.

22.01.2024
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(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: Yes
Whether Reportable: Yes