IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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EFA-3-2025 (O&M)
Date of decision: 07.04.2025

PUNJAB NATIONAL BANK

..Petitioner

Versus

NEW THOUGHT TRADING CORPORATION LIMITED & ORS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Himanshu Sharma, Advocate
for the appellant.

ANIL KSHETARPAL, J (Oral)

CM-348-CI-2025 & CM-347-CI-2025

1. For the reasons stated in the applications for condonation of delay, which are supported by the affidavits, the applications are allowed.

2. The delay of 96 days in refiling and 181 days in filing the appeal, respectively, is condoned.

3. CMs stand disposed of.

Main case

4. The limited grievance of the appellant is with respect to the following observations made by the First Appellate Court:-

> *"7. Taking into account the facts and circumstances of the present case, this court finds that the certified copy of the judgment or decree is not placed on file, which is sought to be executed through the present execution application. A perusal of the copy of judgment dated 25.8.2015 execution of which has been sought through the present execution application, shows that it is not a complete judgment as from the same it does not reveal as to whether the effected parties were given opportunity of*

> *being heard. It seems to be a vague order, which has not been rendered in detail after hearing the parties and by mentioning their respective case. As per Section 13 of the CPC also the foreign judgment which is not conclusive cannot be executed as the same has not been rendered on merits of the case and the proceedings in which the judgment was obtained are opposed to natural justice as from the perusal of the judgment, it is not clear if the parties effected was given opportunity of being heard. This judgment also does not indicate whether any documents were looked into and/or whether the merits of the case was at all considered. This judgment merely granted to the decree holder a decreed for amount mentioned therein."*

5. Learned counsel for the appellant submits that objection petition filed by the Dena Bank has correctly been allowed because the properties were mortgaged with Dena Bank, which have been sold under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. He submits that the appellant being the unsecured creditor cannot get preference over the secured creditors. However, he submits that these observations made by the Court would render the decree unexecutable.

6. This Court has considered the submissions of learned counsel for the appellant and finds substance in the arguments.

7. The appellant claims to be the holder of a decree granted by a Court constituted in Hong Kong. The correctness and enforceability of the judgment and decree passed by the Court at Hong Kong was not the subject matter of issue before the Executing Court. Hence, the aforesaid observations shall not be treated as the final expression of opinion on the validity of the judgment passed by the Court at Hong Kong. However, the order passed by the Executing Court allowing the objections filed by Dena Bank is upheld.

8. With these observations, the appeal is disposed of.

9. All the pending miscellaneous applications, if any, are also disposed of.

April 07th, 2025 **(ANIL KSHETARPAL)**
Ayub **JUDGE**

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