
(2016) 05 SHI CK 0107
In the High Court Of Himachal Pradesh
Case No : CMPMO No. 77 of 2015

Chairman-cum-Managing Director

APPELLANT

Vs

Anoop Kumar

RESPONDENT

Date of Decision : 25-05-2016

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 21

Citation : (2016) ILRHP 1469 : (2016) LatestHLJ(HP) 911 : (2016) 3 SimLC 1188

Hon'ble Judges : Mr. Dharam Chand Chaudhary, J.

Bench : Single Bench

Advocate : Mr. Bhuvnesh Sharma and Mr. Ramakant Sharma, Advocates, for the Petitioners; Mr. Desh Raj Thakur, Advocate, for the Respondent No. 1; Mr. Vinod Chauhan, Advocate, for the Respondent No. 2

Final Decision : Disposed Off

Judgement

Mr. Dharam Chand Chaudhary, J.(Oral)—Challenge herein is to an order passed by learned Civil Judge (Senior Division) Court No. I, Paonta Sahib, District Sirmaur, H.P., whereby the objections preferred by the petitioners herein in execution proceedings initiated on an application under Section 11(10) of the Industrial Disputes Act, 1947 registered as Execution Petition No. 33-WC/10 of 2013/14 have been dismissed and on the request of learned counsel representing the petitioners-JDs, the application was adjourned to 24.02.2015 for appearance of the JDs so that the amount due and payable under the decree sought to be executed could be released in favour of respondent No. 1-workman.

2. The decree holder is respondent No. 1 Anoop Kumar in this petition. He was deployed by the petitioner-establishment through a Contractor. When the payment of his wages was not made despite, he having raised demand repeatedly, the dispute was referred to the Presiding Officer, Central Government Tribunal-cum-Labour Court-1, Chandigarh. The same was registered as LCA No. 4/2010. Learned Industrial Tribunal-cum-Labour Court below after holding full trial has passed the award, Annexure P-2 to this petition. Respondent No. 1

establishment was held entitled to pay a sum of Rs. 5,08,501/- on account of difference of wages and the reference was answered accordingly. The petitioner-establishment has preferred Civil Writ Petition No. 7430/2010 in this Court against the award, Annexure P-2. The writ petition was dismissed long back by a detailed and reasoned judgment, Annexure P-4. The matter, no doubt is pending in the Letters Patent Appeal in this Court, however, admittedly the execution of the award, Annexure P-2 has not been stayed in the appeal.

3. Learned counsel has canvassed that in view of the pendency of the appeal, award Annexure P-2 cannot be executed. Also that the objections the petitioner-establishment preferred in the execution proceedings have been dismissed summarily without framing issues and taking on record the evidence.

4. Both points as urged on behalf of the petitioner-establishment are not tenable for the reason that mere pendency of an appeal against an order or judgment not amounts to staying of execution proceedings automatically. Otherwise also, the execution of the order or judgment under challenge in an appeal, the decretal amount can be ordered to be paid to the claimant-decree holder on furnishing of security including bank guarantee, in order to ensure the recovery thereof, in case the judgment debtor ultimately succeeds in the appeal. I find no force in the second limb of argument also, for the reason that it is always not necessary to frame issues in a matter of this nature, that too, when the award, Annexure P-2 is specific qua the entitlement of the respondent-workman to receive the difference of wages and the same has even been affirmed by a Co-ordinate Bench of this Court vide judgment Annexure P-4. The objections to the execution of award, Annexure P-2 is only that Letters Patent Appeal is still pending disposal in this Court and also that the petitioner-Company is a sick industry and not in a position to make the payment of decretal amount. No issue was required to be framed in view of the observations herein above and also that a sick industry if paying the salary to the Chairman-cum-Managing Director or General Manager and other staff, can also make the payment of the amount due and admissible to a poor workman. Learned trial Court, therefore, has not committed any illegality or irregularity in dismissing the objections preferred by the petitioner-establishment.

5. The petition, therefore, being devoid of any merits is dismissed. Pending application(s), if any, shall also stand disposed of.