
(1987) 11 P&H CK 0038
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 2072 of 1987

Gidderbaha Cooperative Marketing-cum-Processing Society Ltd. APPELLANT
Gidderbaha

Vs

Surja Ram RESPONDENT

Date of Decision : 28-11-1987

Acts Referred:

Citation : (1988) 1 ILR (P&H) 404 : (1988) PLJ 164 : (1988) 1 RRR 552

Hon'ble Judges : J.V.Gupta, J

Advocate : Rajesh Gupta, Advocates., A.K. Chopra, Advocates for appearing Parties

Judgement

J.V. Gupta, J.

1. This petition is directed against the order of the Executing Court dated 25th March 1987 whereby the objections filed on behalf of the judgmentdebtor against the execution of the award of the arbitrator under the Punjab Cooperative Societies Act, 1961 (for short the Act) were accepted. Award against the judgmentdebtor Chaudhary Surja Ram was given on 4.1.1971. The appeal filed by the judgment debtor was dismissed. Ultimately, the judgmentdebtor filed a Civil Writ Petition No. 922 of 1973 in this Court in which stay application was also moved, upon which vide order dated 26.7.1973 this Court stayed the recovery of the amount awarded by the arbitrator except to the extent of Rs. 1,25,000/-. The said amount of Rs. 1,25,000/- was paid by the judgmentdebtor to the decreeholder in instalments from 13th May, 1976 to 31st March, 1980. The writ petition was disposed of on 9.11.1981 holding that the State Government was competent to hear the revision petition and directed the parties to appear before the Deputy Secretary to Government Punjab, Cooperative Department. Chandigarh, on 15th December, 1981. Vide order dated 20 December, 1984, the Deputy Secretary on the revision petition of the judgementdebtor, which was already filed under Section 69 of the Act, reduced the costs from Rs. 48,753.60 to Rs. 20, 441.66. The decreeholder sought the execution of the said award as a

decree of the civil Court. The objections were filed on behalf of the judgmentdebtor alleging that the award was given without any notice; the application for execution was barred by time from the date of the award and no future interest could be awarded by the arbitrator. These objections prevailed with the Executing Court and it consequently dismissed the execution application.

2. Dissatisfied with the same the decreeholder has filed this petition in the Court.

3. No one is present on behalf on the judgmentdebtor in spite of service.

4. The learned counsel for the petitioner submitted that the matter has come up to this Court in this Civil Writ Petition referred to above, and, therefore, these objections were not maintainable. According to the learned counsel, limitation starts from the order of the Deputy Secretary passed in the revision on 20th December, 1984 and therefore, it was within time. In support of his contention he referred to Chandgi Ram v. F.C., Revenue 1963 LLT 115 Amar Nath and others v. Mul Raj (deceased) represented by his legal representatives and others, AIR 1975 Punjab and Haryana 246, Jokhan Rai v. Baikunth Singh, AIR 1987 Patna 133. He also referred to a Full Bench judgment of this Court reported as The State of Punjab v. Ajit Singh and others, 1979 PLR 448, wherein it was held that future interest can be awarded by the arbitrator. It was also contended that the objection of the award being exparte it was no more available after having filed the writ petition in this Court.

5. After hearing the learned counsel for the petitioner and going through the relevant law cited at the Bar, I find force in this contention. In the writ petition referred to above, the High Court sent the case to the Deputy Secretary for deciding the revision afresh which was dismissed on 20th December, 1984, whereby the costs were reduced. Thus the execution could be sought only after the said order was passed. That being so it has been wrongly held by the Executing Court that the execution application was barred by time. As regards the future interest, the matter has been settled by the Full Bench of this Court in Ajit Singh's case (supra) that the arbitrator was competent to award future interest.

6. Under the circumstances the petition succeeds, the order of the Executing Court is set aside. The Executing Court will now proceed with the execution application filed by the decreeholder in accordance with law. The petitioner has been directed to appear before the Executing Court on 11.12.1987. The records of the case be sent back forthwith.