
(2020) 07 SHI CK 0154
In the High Court Of Himachal Pradesh
Case No : Criminal Revision No. 17 Of 2020

Head Of Department Of Rashtriya Military School	APPELLANT
Vs	
Nirmala Devi	RESPONDENT

Date of Decision : 16-07-2020

Acts Referred:

Code Of Civil Procedure, 1908 — Order 9 Rule 13

Citation : (2020) 07 SHI CK 0154

Hon'ble Judges : Jyotsna Rewal Dua, J

Bench : Single Bench

Advocate : Rajesh K. Sharma, Vijender Katoch

Final Decision : Disposed Of

Judgement

Jyotsna Rewal Dua , J

1. An ex-parte award against the petitioner was passed on 3.2.2018 by learned Motor Accident Claims Tribunal, District Hamirpur in MAC Petition No. 59/2015, titled Nirmala Devi & others vs. Anjan Kumar.

2. The claimants preferred execution petition for the enforcement of this award. Alleging that it became aware of the passing of the award only on receipt of the notice of the execution petition, the petitioner herein instituted an application under Order 9 Rule 13 of the Code of Civil Procedure (CPC) for setting aside the award. Petitioner also separately moved an application for stay of the execution proceedings.

3. Learned District Judge, Hamirpur vide order dated 23.12.2019 passed in CMA No. 451/2019 stayed the execution of the award dated 3.2.2018 subject to petitioner's 'furnishing sufficient security qua the amount of award with up to date interest'.

Petitioner has preferred present revision petition against the imposition of afore extracted condition for staying the execution of the award.

4. Admitted position is that the ex-parte award was passed by learned MACT against the petitioner. Application under Order 9 Rule 13 CPC for setting aside this ex-parte award is as yet pending adjudication. This application statedly at hearing stage has not been taken up for decision as yet due to the conditions arising out of Covid-19 pandemic. Learned counsel for both the parties are ad idem that in the interest of justice the pending application under Order 9 Rule 13 CPC can be directed to be first decided by the learned MACT below within a time bound schedule and till the decision of the application, the award dated 3.2.2018 passed in MAC Petition No. 59/2015 be not enforced.

5. In view of the above fair stand taken by learned counsel for the parties, learned Motor Accident Claims Tribunal, Hamirpur-I is directed to decide the application, preferred by the petitioner, under Order 9 Rule 13 CPC for setting aside the award dated 3.2.2018 passed in MAC Petition No. 59/2015, titled Nirmala Devi & others vs. Anjan Kumar by 30th September, 2020. It is ordered that till the decision of this application, the award dated 3.2.2018 shall not be enforced. Needless to say that upon decision of the application under Order 9 Rule 13 CPC, the parties shall be at liberty to avail their respective remedies available to them in accordance with law.

Registry is directed to bring this order to the notice of Learned MACT-I, Hamirpur forthwith. With above observations, the petition stands disposed of, so also the pending application(s), if any.