

(2008) 01 P&H CK 0072
In the Punjab And Haryana At Chandigarh

Karnal Improvement Trust	Vs	APPELLANT
Smt. Krishna Devi and Others		RESPONDENT

Date of Decision : 22-01-2008

Acts Referred:

Citation : (2008) 2 PLR 730 : (2008) 2 RCR(Civil) 457

Hon'ble Judges : Rajive Bhalla, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Rajive Bhalla, J.—Challenge in this revision petition is to the order, dated 22.11.2006, passed by the learned Additional Civil Judge (Senior

Division), Karnal, dismissing objections filed by the petitioner, praying for issuance of directions to the respondents to pay interest @ 18% in

accordance with directions, issued by this Court in C.W.P. No. 7506 of 1990 in terms of the judgment, passed in C.W.P. No. 1893 of 1989.

2. Counsel for the petitioner submits that the learned executing Court committed an error in holding that it could travel beyond the decree, if the

petitioner's prayer was accepted. It is submitted that the decree, under execution, is based, in essence, upon an order of this Court, directing the

respondents to pay interest @ 18% till date. The learned executing Court, however, dismissed the objections, disregarding the afore-mentioned

submissions.

3. Counsel for the respondents, on the other hand, submits that after the decision of the afore-mentioned writ petitions, Jaswant Rai, legal heir of

Khushi Ramjet original allottee, along with other heirs, approached the petitioner for allotment, it, however, refused to allot the plot, compelling the

respondents to file a civil suit, which was eventually decreed by directing the petitioner to allot a plot to the respondents. It is submitted that as the fault, if any, with respect to non-allotment of a plot lay with the petitioner, the respondents are not obliged to pay any interest, and, therefore, the learned executing Court rightly dismissed the objections.

4. I have heard counsel for the parties and perused the impugned order.

5. It is true that an executing Court cannot travel beyond the relief, granted in a decree, under execution. However, in the present case, the allotment has been made to the respondents, in terms of the order, passed by this Court, wherein a specific direction was issued that allotment would be made subject to payment of consideration amount with 18% interest. In this view of the matter, the learned executing Court, before proceeding to direct the petitioner to allot a plot, should have taken into consideration the order of this Court and directed the respondents to pay interest. The respondents, however, have vehemently asserted that as the petitioner delayed the allotment of the plot, without just cause, compelling the respondents to file a suit, no interest is payable.

6. Be that as it may, the learned executing Court should have decided the question of payment of interest, after taking into consideration all relevant facts, raised by the parties. Consequently, this revision petition is allowed, and the order, dated 22.11.2006 is set aside. The matter is remitted to the executing Court for a decision afresh, in accordance with law. Parties are directed to appear before the Executing Court shall decide the objections within three months from the aforementioned date, and determine the date from which the respondents shall be obliged to pay interest

@ 18%.