

(2014) 05 P&H CK 0532

In the Punjab And Haryana At Chandigarh

Case No : C.R. Nos. 1207, 1208, 1211, 1440, 1444 and 1445 of 2012 (O and M)

Pritpal Singh and Others

APPELLANT

Vs

The State of Haryana and Another

RESPONDENT

Date of Decision : 19-05-2014

Acts Referred:

Citation : (2014) 05 P&H CK 0532

Hon'ble Judges : K. Kannan, J

Bench : Single Bench

Advocate : Rakesh Chopra and Mr. S.N. Chopra, Advocate for the Appellant;
Gourav Verma, AAG, Haryana, Advocate for the Respondent

Judgement

K. Kannan, J.—The batch of revision petitions is against the orders passed in execution allowing for the objection of the State to prevail which contended for a position that the payments made towards the decretal amounts that represent the awards determined under the Land Acquisition Act have to be appropriated towards the principal. This objection was accepted by the Executing Court.

2. I have in my order in yet another case in C.R. No. 5618 of 2012 decided on 05.09.2013 held that if there was an outstanding interest payable, a judgment debtor cannot compel a decree holder to give an appropriation of payments made to go towards the outstanding principal. I have in the judgment stated that the appropriation shall first be towards the interest and only if there exists a balance of amount in the total paid, it shall go for deduction from the principal. I have in the said case also approved of a memo of calculation setting out the various payments made and the appropriation which were to be first applied for discharge of outstanding interest before the principal amount could be deducted. The principle that is laid down in the said judgment ought to apply apply a fortiori in all these cases as well.

3. I must also observe as a matter of record that at the previous hearing when the State was seeking the time, I had allowed for time for filing its objection and

posted it finally. The State counsel says that the State is also preferring an appeal against the order passed by the Executing Court on instructions from the Legal Remembrancer. There is no such appeal before me and the matter which is raised in the civil revisions address the very same point which has been a subject of adjudication already by this Court. I do not feel obliged to grant any time for the State. If there is an appeal filed or numbered at later point of time, it will be disposed of on its own merits on the contentions which it proposes to raise. As of now, there is no fresh ground for adjudication than what I have brought out above.

4. The impugned orders passed by the Execution Courts are set aside. The Executing Court shall take up further process in execution on the basis of calculation provided by the decree holder allowing for appropriation towards the outstanding interest for any amount paid and for only the balance of amount to be appropriated towards the principal.

5. All the civil revisions are the instance of the decree holders are allowed as above.