

SUPREME COURT OF INDIA

Union of India

Vs.

M/s.Harbans Singh Tuli & Sons Builders Pvt. Ltd.

C.A.No.5630 of 2002

(Tarun Chatterjee and Aftab Alam JJ.)

05.08.2008

ORDER

1. These appeals are directed against the order dated 26th of November, 2001 passed by the High Court of Punjab and Haryana at Chandigarh in Civil Revision Petition No.6189/2001 by which the civil revision petition filed by the Union of India was rejected.

2. We have heard the learned counsel for the parties and examined the materials on record including the impugned order which had affirmed the order passed by the Executing Court. It is not in dispute that against the judgment and order passed by the learned Civil Judge, Chandigarh, the Union of India has filed an appeal before the appellate court which has been registered as C.A. No. 31 of 2001. The said appeal is still pending decision. Since there was no stay of the execution proceeding for recovery of the money decree, the execution case proceeded and final order in the execution case was passed. In the execution proceeding, the executing court allowed the execution petition accepting the calculations made by the judgment-debtor including interest over interest on the amount awarded by the Arbitrator. Feeling aggrieved, a Civil Revision Case No. 6189/2001 was filed by the Union of India before the High Court in which the core challenge was that whether interest over the interest was payable or not. Be that as it may, these appeals arise out of an order, as mentioned earlier, passed by the High Court in Civil Revision Case No.6189 of 2001 in which the question raised was in respect of two parts. The first part relates to payment of interest from 24th of December, 1973 till 27th of August, 1996 and the second part seems to be prima facie providing interest on the total amount from 27th of August, 1996 till payment. The Executing Court allowed this prayer of decree holder against which the aforesaid civil revision case was filed. The High Court while refusing to interfere with the said order made the following observations:-

“Whether or not this is legally permissible, is the subject matter of the appeal filed by the Union of India. Therefore, I am of the considered opinion that it would be inappropriate for this Court to make any comments on the merits of the controversy.”

On the aforesaid observations, the civil revision case was dismissed. We have heard the learned counsel for the parties and considered the materials on record. We are informed that till today the Civil Appeal No.31/2001 is still pending before the Additional District Judge and, therefore, the observation made by the High Court in the impugned order would show that the question raised in the revision case would very well be adjudicated in the appeal now pending before the appellate court.”

3. Such being the position, we are of the view that no interference is called for under Article 136 of the Constitution of India. Accordingly, these appeals are dismissed. There will be no order as to costs.

4. Before parting, we make it clear that all questions raised by the Union of India in this revision petition shall be allowed to be raised by them before the appellate court till the C.A.No.31/2001 is pending. If any order has been passed staying the proceedings in appeal, the same shall stand vacated and appellate court is directed to dispose of the appeal within six months from the date of supply of a copy of this order positively without granting any unnecessary adjournment to either of the parties.