

(2023-4)212 PLR 116

PUNJAB AND HARYANA HIGH COURT

Before: Mr. Justice Harsimran Singh Sethi.

M/S GURU NANAK PESTICIDES & FERTILIZERS – Petitioner,

Versus

FMC INDIA PVT. LTD – Respondent.

CRM-M-35334-2021

Negotiable Instrument Act, 1881 Section 143-A (2) - Interim compensation - 20% is a maximum limit provided - Once, the maximum limit has been provided, then there is a discretion with the Court to award the compensation starting from 1% to 20% of the amount of cheque - Court is required to give reasons as to why, in a particular case, maximum limit of interim compensation provided in the Act is being awarded - Without there being any reason to award the maximum compensation, the said order cannot be considered to be passed after due application of mind - Order directing the petitioner to make payment of 20% of the cheque amount - Set aside - Fresh order be passed.

Mr. Vikas Garg, for the petitioner. Mr. Nitin Thatai, for the respondents.

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Harsimran Singh Sethi, J. (Oral) - (14th July, 2023) - Present petition has been filed under Section 482 Cr.P.C for quashing of order dated 01.02.2021 (Annexure P/3) passed by the Judicial Magistrate 1st Class, Bathinda directing the petitioner to make payment of 20% of the cheque amount as interim compensation.

2. Learned counsel for the petitioner argues that keeping in view the provisions of the Negotiable Instrument Act, 1881, the Court is empowered to direct for the payment of interim compensation up to 20% of the cheque amount and the language of the relevant Section 143-A (2) of the Negotiable Instrument Act, 1881 makes it clear that Court has the discretion to award any interim compensation starting from 1% to 20% of the total cheque amount hence, while awarding maximum percentage of the cheque amount envisaged under the Act, the Court has to give valid justification for awarding the maximum interim compensation whereas, in the present case, interim compensation of 20% of the amount has been awarded by passing impugned order in a mechanical manner, hence the impugned order dated 01.02.2021 (Annexure P/3) is liable to be set aside.

3. Learned counsel for the respondents submit that once the application was made for the grant of interim compensation by the complainant, which is a right bestowed under the Act with the complainant, the Court has considered the submission of the complainant and

awarded the compensation and, therefore, no grievance can be raised by the petitioner and the present petition is liable to be dismissed.

4. I have heard learned counsel for the parties and have gone through the record with their able assistance.

5. Before proceeding further, Section 143-A (2) of the Negotiable Instrument Act, 1881 which gives power to the Court to pass an order qua interim compensation needs to be reproduced:-

“143-A (2) The interim compensation under sub-section

(1) shall not exceed twenty percent of the amount of the cheque.

(3) x x x x x x x x x

(4) x x x x x x x x x”.

6. A bare perusal of the above rule would show that 20% is a maximum limit provided for awarding an interim compensation in the Negotiable Instrument Act, 1881. Once, the maximum limit has been provided, then there is a discretion with the Court to award the compensation starting from 1% to 20% of the amount of cheque, hence under these circumstances, the Court is required to give reasons as to why, in a particular case, maximum limit of interim compensation provided in the Act is being awarded. Without there being any reason to award the maximum compensation, the said order cannot be considered to be passed after due application of mind.

7. Keeping in view the above, impugned order dated 01.02.2021 (Annexure P/3) is set aside and the matter is remanded back to the trial Court to pass a fresh order on the application of the complainant seeking interim compensation.

8. It may be noticed that this Court is not expressing any view qua awarding of maximum compensation of 20% of the cheque amount in the facts and circumstances of this case but only a finding recorded is that whatever compensation the claimant is found entitled for under Section 143- A (2) of the Negotiable Instrument Act, 1881 the reasons for the same needs to be given.

9. Let the fresh order on the application of the complainant seeking interim compensation be passed within a period of 08 weeks from the date of receipt of copy of this order.

Petition stands disposed of in above terms.

R.M.S.
of.

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Petition disposed

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