

*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Judgment Reserved on: 10th April, 2015

Judgment Delivered on: 06th July, 2015

+ FAO(OS) 165/2015 & CM Nos. 6318-6319/2015

PAPPU RAMASARE CHOURASIYA & ORSAppellants

versus

M/S RELIGARE FINVEST LTDRespondent

Advocates who appeared in this case:

For the Appellants: Mr Mini Cinmoy, Advocate

For the Respondent: None

CORAM:-

HON'BLE MR JUSTICE BADAR DURREZ AHMED

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J

1. This appeal impugns order dated 24.02.2015 whereby the objections filed by the Appellant under Section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the 'Act') have been dismissed.

2. The appellants had filed objections under Section 34 of the Act to the award dated 04.02.2013, primarily on the ground that the

appellants were not served with the notices issued by the Arbitral Tribunal and the appellants were proceeded *ex parte* and an *ex parte* award had been passed.

3. It was contended that the award being an *ex parte* award was violative of principles of natural justice and furthermore the award was perverse and the Arbitrator had failed to take into account the payments made by the appellants from time to time of the equated monthly instalments.

4. The learned Single Judge has disbelieved the plea of the appellants that they did not receive proper notices of the arbitral proceedings. The learned Single Judge after perusing the records of the Arbitral Tribunal has held that the appellants were aware of the arbitral proceedings and were avoiding service inasmuch as the notices that were sent by the Arbitral Tribunal were sent to the correct addresses, the addresses which the appellants admit to be theirs.

5. The dispute pertained to a loan that the appellants had taken from the respondent and had allegedly defaulted in payment of the instalments. The learned Single Judge observed that the appellants did not dispute the liability under the loan agreement nor did they dispute the fact that the Post-Dated Cheques (PDCs) issued towards payment of instalments were dishonoured, though thereafter payments qua some of the dishonoured cheques were made.

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6. The learned Single Judge has held that wherever payment was received by the respondent, a corresponding credit entry was made for the said payment. By the impugned order, the learned Single Judge had accordingly rejected the petition under section 34 of the Act, however, liberty has been given to the appellants to show to the executing court the relevant documents and entries to satisfy that the decretal amount stands discharged to the extent of instalments paid.

7. Perusal of the record of the sole Arbitrator shows that the sole Arbitrator had given peremptory notice prior to proceeding *ex parte* and the notices were sent to the three addresses of the appellants and the remark of the postal authority on the same is “*intimation delivered*”.

8. In our view, there is no infirmity in the order passed by the learned Single Judge in holding that the appellants were duly served with the notices of the proceedings and had intentionally kept away from the arbitral proceedings. We also note that the Arbitral Tribunal had given a peremptory notice putting the appellants to notice of its intention to proceed *ex parte* in case the appellants failed to appear. The appellants had otherwise also admitted the transaction of loan and also the fact that the PDCs issued by the appellants had been dishonoured. With regard to the payments made by the appellants towards the instalments and for replacing the PDCs, the impugned order itself protects the appellants inasmuch as an opportunity had

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been given to the appellants to show to the executing court the record evidencing the payment having been made.

9. We do not find any infirmity with the award dated 04.02.2013 or the impugned order dated 24.02.2015 or any reason to interfere with the same. The appeal is accordingly dismissed. There shall be no order as to costs.

SANJEEV SACHDEVA, J.

JULY 06, 2015
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BADAR DURREZ AHMED, J.