

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 368 of 2016**

1. Naresh Soni S/o Motilal Soni, Aged About 44 Years R/o C/o Laxmi Jewelers, Bus Stand Kharora, Dist. Raipur, Chhattisgarh.....(Judgment Debtors)
2. Ramesh Soni S/o Motilal Soni, Aged About 40 Years R/o C/o Laxmi Jewelers, Bus Stand Kharora, Dist. Raipur, Chhattisgarh.....(Judgment Debtors)

---- Petitioners**Versus**

- Indusind Bank Ltd. ,Babla Complex First Floor, G. E. Road, Raipur Through Power Of Attorney Holder Khemendra Sahu.....(Decree Holder)

---- Respondent

For Petitioners : Shri Mahesh Pandey, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****20/06/2016**

1. Petitioner has suffered an arbitration award, wherein the arbitrator has directed him to repay the amount of Rs.81,321/- along with interest. The award was passed on 29-8-09, however, the petitioner has not taken steps to assail the legality and validity of the award by moving an application under Section 34 of the Arbitration and Conciliation Act, 1996 (for short 'the Act, 1996').
2. In the impugned order, the executing Court i.e. the District Judge, Raipur has rejected petitioner's application under Section 47 read with section 151 CPC by which the petitioner has prayed that an *ex parte* award is not executable and in alternative he may be permitted to repay the amount on

monthly installment of Rs.300/-.

3. The executing Court has rightly dismissed the application because an *ex parte* award is equally executable like an award passed after hearing the parties. The petitioner has not brought to the notice of this Court any such legal objection which would constitute a ground rendering the decree as non-executable.
4. The petitioner has failed to raise any such ground for interference under Article 227 of the Constitution of India as held by the Supreme Court in the matter of **Surya Dev Rai Vs. Ram Chander Rai**¹ and **Shalini Shyam Shetty Vs. Rajendra Shankar Patil**².
5. For the foregoing, this petition being devoid of any substance, deserves to be and is hereby dismissed. However, liberty is reserved in favour of the petitioner to move before the District Judge under Section 34 of the Act, 1996.

Sd/-

Judge
Prashant Kumar Mishra

Ashu

1 (2003) 6 SCC 675

2 (2010) 8 SCC 329