

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 1 of 2015**

1. M/s Shri Ram Transport Finance Company Through Authorized Officer Akshya Pal, S/o Kiran Pal, At Present Durga Prasad Duvedi Aged About 40 Years, S/o Shankarsan Duvedi, Branch Manager Shri Ram Transport Finance Company Limited, Kera Road Janjgir, Police Station & Tahsil Janjgir, District Janjgir Champa, Civil & Revenue District Janjgir Champa, CG

---- Petitioner/Award Holder/Applicant**Versus**

1. Shahid Mohammad And Ors. S/o Mohammad Washik, Aged About 32 Years R/o Ward No. 07, Latiya Road, Railway Colony, Akaltara, Police Station & Tahsil Akaltara, District Janjgir Champa, Civil & Revenue Distt Janjgir Champa, Cg
2. Ashok Agrawal S/o Visheshwar Agrwal Aged About 46 Years R/o Ward No. 05, Durgapara, Akaltara, Police Station & Tahsil Akaltara, District Janjir Champa, Civil & Revenue District Janjgir Champa, Cg

---- Respondents/Judgment Debtors/Non-Applicants

For Petitioner : Shri Ratnesh Kumar Agrawal,
Advocate

None for respondent 2 though represented.

Notice issued to respondent 1 returned unserved.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****03/03/2016**

1. Learned counsel for the petitioner submits that it is not required to hear respondent 1 as both the respondents were not issued any notice and heard by the Court below before passing order dated 22.9.2014 and the Court below dismissed the said execution case merely after hearing the petitioner. It is submitted that the instant matter is covered with the order passed in C.R. No.179 of 2012 (IndusInd Bank Limited Vs. Varsha Chitaliya & Ors.) dated 29.7.2015 wherein also this Bench has held that

insistence regarding transmission of the award from any other Court is not required and the executing Court is directed to proceed with the execution of the award. Hence, it is prayed that the matter may be heard and disposed of at the motion stage itself.

2. On due consideration, the matter is heard finally without service of notice to respondent 1.

3. From perusal of the order passed by this Court as aforementioned, it goes to show that the matter is fully covered and identical with the aforementioned C.R.No.179 of 2012. As per settled law, under the provisions of Section 36 of the Arbitration and Conciliation Act, 1996 (in brevity the Act of 1996), the award in question be executed without being transfer of the same from any other Court. As the award passed under Section 36 of the Act of 1996 is an award "if it were a decree of the Court".

4. Upon consideration of the entire facts, the present matter filed on behalf of the petitioner is hereby allowed as the same is covered and identical regarding the order earlier passed in C.R. No.179 of 2012. Hence, without discussing the other facts, on the basis of the principles laid down in C.R. No.179 of 2012, the instant petition is allowed. The impugned order dated 22.9.2014 is hereby set aside. The executing Court is directed to proceed with the execution of the award dated 1.6.2012 in accordance with law without insisting upon the transmission of the award from any other Court.

5. The petition is allowed. No order as to cost. Sd/

(Chandra Bhushan Bajpai)
Judge