

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 497 of 2016

- Girdhari Sahu S/o Teju Ram Sahu, Aged About 80 Years R/o Village & Post Semaradih, Tahsil & Police Staiton Baloda Bazar, Raipur Chhattisgarh (judgment debtor/Non-applicant No.1)

---- Petitioner

Versus

1. M/s Mahindra & Mahindra Financial Services Ltd A Company Incorporated Under the the Companies Act 1956 And having Its Corporate Office At Mahindra Towers Worli Mumbai and inter alias a branch office at Maruti Heights, Near Amanaka Level Crossing, G.E. Road, Raipur, Chhattisgarh Through Its Attorney At Relevant Times (Decree Holder / Applicant)
2. Vishram Sahu, S/o Milan Ram Sahu, R/o Village Post Semaradih, Tahsil & Police Station Baloda Bazar, Raipur Chhattisgarh

(judgment debtor/non-applicant No.2)

For Petitioner

Mr. Mahesh Pandey, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

16/8/2016

1. Petitioner has suffered an arbitration award, wherein the arbitrator has directed to repay the amount of Rs.8,17,846/- along with interest. The award was passed on 04.07.2016, however, the petitioner has not taken steps to assail the legality and validity of the award by moving any 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 the petitioner's application under Section 36 of the Act read with Order 21 Rule 10, 43 & 54 of CPC, by which the petitioner has prayed that an *ex parte* award is not executable.
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, (2003) 6 SCC 675** and **Shalini Shyam Shetty Vs. Rajendra Shankar Patil, (2010) 8 SCC 329**.
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)

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