

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

CR No.1613 of 2014

Date of Decision: 09.08.2016

Sorab

.....Petitioner

Versus

M/s India Bulls Financial Services Ltd. & another

....Respondents

CORAM: HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. Sandeep Jasuja, Advocate for the petitioner.

Ms. Kiran Bala Jain, Advocate for respondent No.1.

DARSHAN SINGH, J (ORAL)

The present revision petition has been preferred against the order dated 02.12.2013 (Annexure P-4), vide which the objection petition filed by the petitioner/judgment debtor has been dismissed.

2. Learned counsel for the petitioner contended that the award dated 22.03.2012 which is being executed was an ex parte award. The decree holder-respondent has played a fraud with the petitioner. The vehicle purchased by the petitioner by utilising the loan was stolen and this fact was very much in the knowledge of the decree holder.

3. I do not find any substance in these pleas. The fact that the criminal case regarding theft of vehicle was registered is not a ground to decline the execution of the award. The only remedy available to the petitioner was to file the objections under Section 34 of the Arbitration and Conciliation Act, 1996. It has been admitted at bar by learned counsel for the petitioner that the objections were filed and the same

were dismissed by the learned Additional District Judge, Patiala House, Delhi and even the appeal has been preferred before the Hon'ble Delhi High Court. So, the petitioner is already availing the legal remedy available with him to challenge the award. Thus, I do not find any illegality in the order dated 02.12.2013.

4. The petitioner has also challenged order dated 15.01.2014 (Annexure P-6) vide which the conditional warrants of arrest have been issued against the petitioner. The warrants of arrest can only be issued in an execution for recovery of money under Order 21 Rule 37 Code of Civil Procedure, 1908 (for short "CPC"). The perusal of the impugned order shows that the procedure prescribed under Order 21 Rule 37 CPC has not been followed at all by the learned executing Court before issuing the conditional warrants of arrest of the petitioner-judgment debtor. So, the order dated 15.01.2014 cannot be sustained in the eyes of law. The same is hereby set aside. The learned executing Court will pass a fresh order in accordance with law on the application moved by the decree holder for detention of the judgment debtor in the civil prison for realisation of the decretal amount.

5. The present revision petition stands disposed of accordingly.

09.08.2016
Vinay

[DARSHAN SINGH]
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No