

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

**CR No. 3115 of 2016 (O&M)
Date of decision: 22.07.2016**

Bahid

... Petitioner

vs.

M/s Sundaram Finance Ltd. and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Rakesh Dhiman, Advocate,
for the petitioner.

...

AMOL RATTAN SINGH, J. (ORAL)

By this petition, the order of the learned Executing Court, dated 23.12.2015 and the Award of the Arbitrator, dated 30.03.2016, are sought be set aside. Vide the order dated 23.12.2015, the petitioner was ordered to be proceeded against *ex parte* by the learned Executing Court, as he was found to have been served first through his son and then through his wife, on two different dates (given in the said order).

As regards the order of 23.12.2015, though learned counsel has submitted that the non-presence of the petitioner was on account of the fact that he was actually away on a religious journey.

However, that issue need not be gone into at this stage, in view of the fact that, as submitted by the learned counsel, the Award dated 30.03.2016, in respect of which the

execution proceedings are pending at the Court in Nuh (Mewat), has also been appealed against before the appellate authority in Chennai, by the petitioner; and in the appeal filed, the operation of the Award itself has been stayed, till the decision of the appeal. Hence, the execution proceedings in any case, would remain stayed.

Further, with the Award dated 30.03.2016, having been already appealed against before an appellate authority in Chennai, the challenge to the same Award would not be maintainable before this Court.

Therefore, this petition is dismissed, with liberty to the petitioner to move a fresh petition on the same cause of action, if the appellate authority dismisses his appeal against the Award of the learned Arbitrator.

If any such dismissal is on grounds of jurisdiction, then of course, the Award may be challengeable in appropriate proceedings before this Court. However, if it is dismissed on other grounds, obviously, as regards the Award dated 30.03.2016, the petitioner would avail of his remedy before the appropriate Forum. If the Award is dismissed on merits, thereby reviving the execution proceedings, then of course, the appropriate remedy with regard to such execution proceedings, would be availed of by the petitioner, accordingly.

July 22, 2016
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(AMOL RATTAN SINGH)
JUDGE