

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

**CR- 3428 of 2015 (O&M)
DATE OF DECISION:16.3.2016**

M/S SURGICRAFTS

.. Petitioner

VS.

HARYANA VIDYUT PRASARN NIGAM LTD.

...Respondent

CORAM: HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. Sanjay Jain, Advocate
for the petitioner.

Mr. Pardeep Rajput, Advocate
for the respondent.

DARSHAN SINGH, J. (ORAL)

1) The present revision petition has been preferred against the order dated 20.04.2015 passed by learned Additional District Judge, Ambala vide which the objections filed by the petitioner in the execution petition, have been dismissed.

2) Learned counsel for the petitioner contended that the arbitration award in this case was passed under the provisions of the Arbitration Act, 1940 (hereinafter called as 'the old Act'). The petitioner has filed the application under Section 14 of the old Act for setting aside the award dated 8.11.2002 was made the rule of Court by the learned Additional Civil Judge (Senior Division), Ambala vide judgment and decree dated 03.09.2009 under the old Act. It was specifically mentioned that the award is ordered to be made the rule of Court under Section 17 of the old Act. So both the parties have taken up proceedings under the old Act. The award was also

made the rule of Court under the old Act.

3) The legal position has not been disputed at bar by learned counsel for respondent that as per Section 38 of the Code of Civil Procedure, 1908, a decree can be executed either by the Court which passed it or by the Court to which it is sent for execution. It has been conceded at bar that the execution should have been filed in the Court of learned Additional Civil Judge (Senior Division), Ambala which made the award a rule of the Court.

4) Learned counsel for respondents has suggested that the execution cannot be dismissed on that score, at the most, the execution proceedings can be transferred to the Court of learned Additional Civil Judge (Senior Division) for proceeding further in accordance with law. The direction can also be given to decide the objections moved by the petitioner afresh by the learned executing Court.

5) Thus, in view of the aforesaid undisputed legal position, the present revision petition is hereby allowed.

6) The impugned order dated 20.04.2015 is hereby set aside. The execution proceedings initiated by the respondent bearing No.181 of 01.04.2013 stands transferred to the Court of learned Additional Civil Judge (Senior Division), Ambala for disposal as per law. The learned Additional Civil Judge (Senior Division) will also decide the objections preferred by the petitioner afresh.

March 16, 2016

SwarnjitS

**(DARSHAN SINGH)
JUDGE**