

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

Civil Revision No.5820 of 2016 (O&M)

Date of decision : 26.10.2016

Mulakraj Singh

.....Petitioner

Versus

Shri Ram Transport Finance Company Ltd. and another

...Respondent

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. Abhimanyu Singh, Advocate for petitioner.

DARSHAN SINGH, J.

The present revision petition has been preferred against the order dated 30.07.2016 passed by the learned Additional District Judge, Nuh in execution case No.347 of 18.08.2015, whereby the objections preferred by the petitioner have been dismissed.

2. I have heard learned counsel for the petitioner and have gone through the paper-book carefully.

3. Learned counsel for the petitioner contended that petitioner had got financed a vehicle from the respondent-Finance Company and had been continuously paying the instalments. The loan agreement containing the arbitration clause was executed. He contended that after some time due to financial crisis the petitioner could not deposit the instalments in time. The respondent-Finance Company without any proper notice to the

petitioner procured the arbitral award against the petitioner on 26.03.2015 at district Alwar. On 06.05.2015, the respondent-Finance Company cleverly picked up the vehicle of the petitioner and recovered the amount by putting the said vehicle on auction. Thus, now the respondent-Finance Company has no right to recover any amount from the petitioner. Thus, he contended that the objections preferred by the petitioner has been wrongly dismissed by the learned trial Court. To support his contentions, he relied upon case ***M/s PKF Finance Limited Vs. Lashwinder Singh and others 2013(3) RCR (Civil) 501.***

4. I have duly considered the aforesaid contentions.
5. Annexure P-3 is the copy of the objections preferred by the petitioner before the learned executing Court. In his objections, the petitioner has mentioned that he has requested the DH to repossess the vehicle and to clear the remaining outstanding amount. Thereafter, he handed over the vehicle to the DH on 05.06.2015 and the DH had alienated the said vehicle in open auction. Thus, the facts mentioned in the present revision petition are entirely contradictory to the case set up in the objections, as in the revision petition the petitioner has mentioned that his vehicle was taken away by the respondent-Finance Company illegally and without his consent, whereas in the objections he categorically mentioned that he himself handed over the vehicle to the respondent-Finance Company for realization of the outstanding amount.
6. As stated at bar by learned counsel for the petitioner, the award for a sum of Rs.4,73,186/- was passed against the petitioner. The

petitioner has not mentioned at all as to how much amount was realized by sale of the vehicle. It appears that the petitioner has not mentioned the said fact intentionally, which was very crucial.

7. In the present petition the petitioner has mentioned that the award was passed without issuance of any notice to him. For that the petitioner had a remedy to file the objection under Section 34 of the Arbitration and Conciliation Act, 1996 and the objections to the execution of the award is not the proper legal remedy for that grievance.

8. The respondent-Finance Company has a right to recover the outstanding amount in execution of the award, so the objections moved by the petitioner has been rightly dismissed by the learned executing Court. Consequently, the impugned order does not suffer from any legal infirmity.

9. Resultantly, the present revision petition is without any merit and the same is hereby dismissed.

26.10.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No