

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

CR No.6359 of 2016(O&M)

Date of decision:5.10.2016

Surinder Singh

....Petitioner

VERSUS

Shriram Transport Finance Ltd. and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Bhag Singh, Advocate for the petitioner.

REKHA MITTAL, J. (Oral)

The present petition has been directed against order dated 30.07.2016 passed by the Additional District Judge, Mohali, whereby the applications filed by the judgments debtors (in short 'JD') in the execution petition for enforcement of award dated 15.01.2014 have been dismissed.

JDs/petitioner assailed the execution proceedings primarily on two counts namely that since the vehicle was surrendered by JD No.1, the JDs are not liable to pay the decretal amount as claimed by the decree holder. The award had been passed ex parte without giving any opportunity of hearing to JDs.

The applications were dismissed by the executing Court with the following observations:-

“4.....JDs had the right to challenge the award under Section 34 of the Act but so far no petition has been filed by them. Further the award specifically mentions that JDs were served through registered post on their last known addresses but they did not appear and were proceeded against ex parte. Hence this contention of JDs holds no ground. It has been submitted by both the JDs that the vehicle had been surrendered

and they are not liable to pay the award amount. But neither any document in this regard has been produced by them nor any specific date has been mentioned as to when he surrendered the vehicle. Moreover surrender of vehicle does not absolve them of their liability of paying the award amount. This ground could have been taken by them before Arbitrator and not before the executing Court cannot got (sic) beyond the award/decreet.”

As per the settled position in law, the executing Court cannot go beyond the decree. If the JDs had any grievance against the award passed by the Arbitrator, they could avail appropriate remedy provided under Section 34 of the Arbitration and Conciliation Act, 1996. As the JDs did not opt to avail the appropriate remedy, they cannot be permitted to agitate those issues before the executing Court. In case, such a course is allowed to be adopted by a person against whom an arbitral award has been passed, the very purpose of providing a specific remedy by way of filing objections against the arbitral award and that too within the stipulated period of limitation would be frustrated.

For the foregoing reasons, finding no merit, the petition is dismissed.

OCTOBER 5, 2016

‘D. Gulati’

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned : yes/no

Whether reportable : yes/no