

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

C.R. No.7408 of 2016 (O&M)

Date of Decision.07.11.2016

Sh. Irshad and others

.....Petitioners

Vs

Punjab Kashmir Finance Limited

.....Respondent

Present: Mr. Kul Bhushan Sharma, Advocate
for the petitioners.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J. (ORAL)

The petitioners are aggrieved of the impugned order whereby the objection petition (Annexure P-4) to the execution of Award dated 30.08.2013 has been dismissed on the premise that the remedy, if any, lies under Section 34 of the Arbitration and Conciliation Act, 1996.

Mr. Kul Bhushan Sharma, learned counsel appearing on behalf of the petitioners submits that in pursuance of the loan having been taken, the petitioners had mortgaged the vehicle bearing registration No.HR 74-6713. Though the Award was ex parte, but later on they had paid the amount outstanding and in lieu thereof, the respondent finance company had issued the termination letter direct to the Registering Authority, Haryana on 25.04.2016 and Form 35 under the Motor Vehicles Act. The Registering Authority-cum-RTA, Nuh, Mewat had issued fresh registration certificate dated 20.08.2016 in favour of the petitioner deleting the factum of hypothecation. All these factors have not been considered by the Court below and dismissed the objection erroneously without affording opportunity to the petitioners. The Court below has foreclosed the rights of

specific provisions under Section 34 of the Arbitration and Conciliation Act, which remedy has not been availed by the petitioners, thus, urges this Court for setting aside the order under challenge.

I have heard learned counsel for the petitioners, appraised the paper book and of the view that shown the facts above, the petitioners should be given opportunity to apprise the Court, much less, the Court would have called upon the other side to ascertain the authenticity of the aforementioned facts. Had it been, it could have saved the time of the Court.

Accordingly, the impugned order dated 03.10.2016 is hereby set aside and the matter is remitted back to the Court below with liberty to the petitioner to revive the objection petition, in essence, the objection petition shall not be treated as regular objection. The petitioners shall move an application afresh accompanying all documents as noticed above and on receipt of the same, the trial Court will call upon the decree holder to seek clarification and shall decide the matter in accordance with law.

The revision petition stands disposed of as above.

(AMIT RAWAL)
JUDGE

November 07, 2016

Pankaj*

Whether reasoned/speaking Yes

Whether reportable No