

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

FAO No.5749 of 2013
Date of decision : 31.05.2016

Satish Mahajan

...Appellant

Versus

PKF Finance Ltd. and ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

1. Whether reporters of local newspapers may be allowed to see judgment ?
2. To be referred to reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present: Mr. Vishal Gupta, Advocate for the appellant.

Mr. Rohit Sud, Advocate for respondent Nos.1 and 2.

AMIT RAWAL, J. (Oral)

The appellant is aggrieved of the dismissal of the objection filed under Section 34 of the Act seeking setting aside of the ex parte award dated 22.10.1998.

Mr. Vishal Gupta, learned counsel appearing on behalf of appellant submits that in pursuance to the hire-purchase agreement entered into between the parties for extending the loan for the purchase of the truck to the appellant, certain dispute arose and the matter was referred to the Arbitrator. The Arbitrator did not record satisfaction in proceeding ex parte and ordered for publication in Daily Ajit Samachar Newspaper at Jalandhar whereas appellant is residing at Pathankot, therefore, award under challenge was not

sustainable as appellant has been prevented from objecting to this Court and, therefore, the objections in this regard are falling within the provision of Section 1(i) Sub Section 2 of Section 34 of the Act. He further submits that there is no compliance of provision of Sub Section 5 of Section 31 of the Act.

Mr. Rohit Sud, Advocate for respondent Nos.1 and 2 submits that in execution proceedings, objections were filed in 2009. The appellant was defaulter in not paying the amount of loan which necessitated the respondent to invoke the arbitration. The approach of the appellant is not only negligent but callous and thus interference in present appeal is unwarranted.

I have heard learned counsel for the parties and appraised the paper book and of the view that even Arbitrator has failed to comply with the provision of Sub-Section 5 of Section 31 as no copy of the award is stated to have been sent to the appellant and it is only in the execution proceedings, appellant received copy of same i.e. in 2000. For all this period, the interest stood accumulated which cannot be fastened upon the appellant.

I have come across in many cases where the dispute is between the Financier and Loanee, the Arbitrators are appointed and do not comply with the statutory provision of Act, in essence, they are not in the knowledge of the Act resulting into multifarious of the litigation and thus deem it appropriate to issue direction in this suit that financial institution should appoint Arbitrators having some legal background. It is a matter of record that publication caused was in Jalandhar whereas appellant is resident of Pathankot, therefore, there was no effective service, ex parte proceedings and ex parte award could not be initiated. Objections in my view were falling within the provision aforementioned.

For the foregoing reasons, award and order under challenge are

hereby set aside.

Parties shall be at liberty to seek vindication of the grievances in accordance with law.

Appeal stands allowed.

31.05.2016

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**(AMIT RAWAL)
JUDGE**