

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 407 OF 2015

Shahanaj Roufkhan Pathan and
others

.. Petitioners

Versus

M/s Shriram Transport Finance
Co. Ltd. Latur

.. Respondents

Shri S. D. Tawshikar, Advocate for the Petitioner.
Shri A. S. Kulkarni, Advocate h/f Shri S. S. Gangakhedkar,
Advocate for the Respondent.

**CORAM : S. V. GANGAPURWALA, J.
DATE : 13TH DECEMBER, 2017.**

FINAL ORDER :

. The petitioner has challenged the notice issued by the Executing Court pursuant to the arbitral award.

2. Mr. Tawshikar, the learned advocate for the petitioner submits that, the petitioner was never served with the notice of arbitration by the arbitrator. No agreement exists of referring any dispute to the arbitrator in arbitration proceeding. The loan of Rs. 9,17,000/- was borrowed. The petitioner had deposited an amount of Rs. 3,50,000/-. The truck in question was sold by the

respondent for an amount of Rs. 5,85,000/- that too without notice to the petitioner, still an ex-parte award is passed for recovery of Rs. 7,73,116/-. The arbitrator has not given any reasons in the award.

3. The learned counsel for the respondent submits that, the arbitral award is not challenged and has become final. The petitioner was served with the notice of arbitral proceeding and also award.

4. The arbitral award can be challenged on the grounds enumerated U/Sec. 34 of the Arbitration and Conciliation Act within the period as prescribed in the said provision. The petitioner has to challenge the same by filing application within three (03) months.

5. The petitioner has also not appeared before the Executing Court and has directly challenged the notice in this writ petition. The petitioner has failed to deposit the amount as directed by this Court.

6. As the petitioner has remedy under the Statute and also considering the fact that, the petitioner has not obeyed the orders of this Court, directing the petitioner to deposit Rs. 2,00,000/-, I am not inclined to exercise writ jurisdiction of this Court under

Article 227 of the Constitution of India. The petitioner is at liberty to take up appropriate steps as would be permissible in law. No costs.

[S. V. GANGAPURWALA, J.]

bsb/Dec. 17