

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.3572 of 2016

Date of Decision : 27.09.2017

CHOLAMANDLAM INVESTMENT AND FINANCE CO. LTD.

....PETITIONER

VERSUS

SUKHWINDER SINGH AND OTHERS

....RESPONDENTS

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Ankur Gupta, Advocate for the petitioner.
Mr. Tribhawan Singla, Advocate for respondents No.1 and 2.
Respondent No.3 ex parte.

RAMESHWAR SINGH MALIK, JUDGE (ORAL)

Feeling aggrieved against the order dated 08.02.2016, passed by the learned trial Court, whereby application moved by the defendants for referring the matter to the Arbitrator as per clause 29 of the agreement between the parties was dismissed by the learned trial Court, defendant No.1 has approached this court by way of present civil revision petition under Article 227 of the Constitution of India, for setting aside the impugned order.

Notice of motion was issued.

Heard learned counsel for the parties.

A bare perusal of the impugned order, passed by the learned trial Court would make it clear that keeping in view the averments taken in the plaint by the plaintiffs-respondents, it was no more feasible at the hands of the learned trial Court to allow the application of defendant No.1 for referring the case to the Arbitrator. It is so said because plaintiffs have filed suit for permanent injunction only, restraining the defendants from having forcible

possession of the vehicle in question. Plaintiffs also took the plea of illegal threat and harassment at the hands of defendant No.1-petitioner. In such a situation, Arbitrator would be totally incompetent to decide these issues of illegal threat and harassment raised by the plaintiffs. Having said that this Court feels no hesitation to conclude that the learned trial Court was well within its jurisdiction to pass the impugned order and the same deserves to be upheld.

So far as the judgment of Hon'ble Supreme Court in 'M/s Sundaram Finance Limited and another versus T. Thankam,' 2015(2) RCR (Civil) 920, relied upon by learned counsel for the petitioner, is concerned there is no dispute about the law laid down and observations made therein. However, on a close perusal of the cited judgment, it has not been found to be of any help to the petitioner because there was no issue of illegal threat and harassment raised by the plaintiff in the cited judgment. In this view of the matter, the judgment of the Hon'ble Supreme Court is not applicable to the facts of the case in hand. It is the settled principle of law that peculiar facts of each case are to be examined, considered and appreciated first, before applying any codified or judgemade law thereto. Sometimes, difference of even one circumstance or additional fact can make the world of difference, as held by the Hon'ble Supreme Court in Padmausundara Rao and another versus State of Tamil Nadu and others, 2002(3) SCC 533, Union of India versus Amrit Lal Manchanda and others, 2004 (3) SCC 75, State of Orissa versus Md. Illiyas, 2006(1) SCC 275 and State of Rajasthan versus Ganeshi Lal, 2008(2) SCC 533.

There is another equally important practical aspect of the matter that as per the arbitration clause between the parties, the arbitration

proceedings shall take place at Chennai, whereas the plaintiffs are resident of District Barnala in the State of Punjab. In the recent past, it has been experienced by this Court that finance companies like the petitioner in the case in hand are getting ex parte arbitration awards in petty matters and thousands of execution applications are pending before the learned Civil Courts in both the States of Punjab and Haryana. In this view of the matter, no fault can be found in the impugned order passed by the trial Court and the same deserves to be upheld.

During the course of hearing, learned counsel for the petitioner could not point out any patent illegality or perversity in the impugned order, which may warrant interference at the hands of this Court, while exercising its revisional jurisdiction under Article 227 of the Constitution of India. In fact, the impugned order has been found duly supported by sound reasons and the same deserves to be upheld, for this reason also.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that present revision petition is misconceived, bereft of merit and without any substance. Thus, it must fail. No case for interference has been made out.

Resultantly, with the abovesaid observations made, instant revision petition stands dismissed, however, with no order as to costs.

(RAMESHWAR SINGH MALIK)
JUDGE

September 27, 2017

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Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No