

CR- 7500 of 2013
Date of Decision: 3.10.2017

Ranjit Singh

---Petitioner

versus

M/s Ashok Leyland Finance and another

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Ramesh Sharma, Advocate
for the petitioner

Mr. A.S.Virk, Advocate,
for respondent No. 1

Rekha Mittal, J.

The present petition directs challenge against order dated 26.8.2013 passed by the Additional District Judge, Ludhiana whereby objections (Annexure P-2) filed by the petitioner-judgment debtor in the execution of award (Annexure P-1) were dismissed.

Counsel for the petitioner has submitted that Sardool Singh respondent No. 2 obtained financial assistance for purchase of truck and the petitioner stood as a guarantor for repayment of loan advanced to Sh. Sardool Singh. It is further submitted that the Arbitrator passed the award without any notice to the petitioner, therefore, the award is a nullity and is not capable of being executed through process of the court.

Counsel representing respondent No. 1, on the contrary, has supported the award with the submission that the Arbitrator issued notices for personal as well as substituted service of the judgment debtors including

the petitioner, therefore, the petitioner cannot derive any advantage to his contention from the judgment of this Court **Mandi Adampur Marketing Society Limited vs. Ram Sarup 1978 RLR 552.**

Perusal of the impugned order would make it evident that the Court below rejected plea of the objector by holding that arguments advanced by the judgment debtors on merits of the award are not maintainable as the same has already been decided. The Court cannot go beyond the award as the executing court has to implement the award. The court has not addressed the issue whether the petitioner was issued notice(s) by the arbitrator or award can be said to be nullity as no service was effected by the Arbitrator qua the petitioner.

Counsel for the parties have fairly informed that in order to decide the question of service being a factual controversy, the matter may be remitted to the Court below for deciding this issue on the basis of evidence to be adduced by the parties. In view of the above, the present petition is disposed of. The Order impugned is set aside and the matter is remitted to the court below for deciding the question of service of the petitioner by the Arbitrator, on the basis of evidence to be adduced by the parties in support of their respective contentions in this regard.

The parties through their counsel are directed to appear before the executing court on 25.10.2017.

(Rekha Mittal)
Judge

3.10.2017

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No