

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

**FAO No. 1023 of 2016 (O&M)
Date of Decision: 03.11.2017**

Varinder Kumar

..... Appellant

Versus

Mahindra & Mahindra Financial
Services Limited, Chandigarh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: None for the appellant.

JASWANT SINGH, J. (ORAL)

Appellant-Varinder Kumar had raised a loan of ₹ 4,95,000/- from Mahindra & Mahindra Financial Services Ltd. (respondent No. 1 herein) for purchase of *Renault Logan* Car. The loan was to be returned in sixty (60) equal monthly installments of ₹ 11,756/- each and secured by hypothecation of the vehicle. A Loan-cum-Hypothecation Agreement dated 16.10.2008, including the arbitration clause, was executed between the parties. Sh. Rajesh Pandhi (*pro forma* respondent No. 3 herein), was the guarantor of the said loan. Appellant-borrower after a payment around ₹ 2,50,000/- is appears to have become a defaulter, leading to invocation of the arbitration clause, whereby Mr. Sanjay Aggarwal was appointed as the Arbitrator to conduct the proceedings at Mumbai.

Pursuant to non-appearance of the appellant-borrower after due notice, an *ex parte* Award dated 30.08.2011 came to be passed, whereby the claimant-respondent No. 1 (Mahindra & Mahindra Financial Services Limited) was held entitled to recovery of a sum of ₹ 5,66,665/- with interest.

The liability was joint and several of the principal borrower and the guarantor, who both filed an objection petition under Section 34 of the Arbitration and Conciliation Act (for short 'the Act') before the Additional District Judge, Chandigarh, who vide impugned order dated 28.09.2015 dismissed the objection petition. Hence, the present appeal under Section 37 of the Act.

A perusal of the previous orders reveals that the present appeal was filed through Sh. H.R. Bhardwaj, Advocate and on his refusal to argue the case, notice of the appeal was sent to the appellant in compliance of the order dated 16.05.2016. The said notice stands duly served since 11.07.2016.

Neither the appellant in person nor any counsel on his behalf has put in appearance, therefore, the present appeal is dismissed for non-prosecution.

November 03, 2017

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**(JASWANT SINGH)
JUDGE**

<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>