

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

**FAO No. 732 of 2017(O&M)
Date of decision : 20.02.2017**

Saab Singh

..... Appellant

versus

**Dilmer Financial Services India
Private Limited and another**

..... Respondents

CORAM : HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Karan Bhardwaj, Advocate for the appellant.

Mr. Vipul Dharmani, Advocate for the caveator-respondent(s).

ARUN PALLI, J. (Oral)

CM No. 2337-CII of 2017

This is an application for condonation of delay of 62 days in
refiling the present appeal.

For the reasons recorded in the application, the same is allowed
and delay of 62 days in refiling the present appeal stands condoned.

CM No. 2338-CII of 2017

This is an application for making good the deficiency in Court
fee.

For the reasons recorded in the application, the same is allowed
and deficiency in Court fee is made good.

FAO No. 732 of 2017

Vide order that is being assailed, dated 24.08.2016, rendered by Additional District Judge, Ludhiana, the Court has appointed an ex parte receiver to seize the vehicle i.e. Bharat Benz truck (Model BB HDT 3123R CBC) bearing registration No. PB-11BU-9975.

Pursuant to the hypothecation agreement dated 28.12.2015 entered into between the parties, respondents had financed a truck and lent a sum of Rs. 25,52,997/- to the appellant. The loan amount was required to be repaid in 49 equal monthly instalments. However, appellant defaulted. Resultantly the respondents moved an application under Section 9 of the Arbitration and Conciliation Act, 1996, and vide impugned order the Court appointed Sh.Dinkar M.S., authorised signatory of the respondents, as receiver with a direction to seize the vehicle forthwith. This is how the appellant is before this Court.

Vide impugned order the Court not only appointed the receiver ex parte, but also issued notice to the appellant for 28.10.2016, to show cause as to why the said order be not confirmed. Concededly the appellant never appeared before the Additional District Judge, Ludhiana. Learned counsel for the caveator-respondent submits that the Court is still in seisen of the dispute and the matter is pending for 23.03.2017. So much so, he submits that even the arbitrator has since been appointed. That being so, if the appellant was indeed aggrieved against order dated 24.08.2016, he ought to have moved the same Court, in the first instance, for vacation or modification of the ex parte order.

In the wake of the above, no interference is warranted. The

appeal being devoid of merit is accordingly dismissed.

(ARUN PALLI)
JUDGE

February 20, 2017
sunita

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No