

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

Civil Revision No. 140 of 2018

Date of Decision: 11.01.2018

Shyam Bihari Vashist

. . . Petitioner

Versus

M/s A.D. Global and others

. . . Respondents

**CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN**

Present: Mr. Shailender Kashyap, Advocate  
for the petitioner.

\*\*\*\*\*

**Ramendra Jain, J. (Oral)**

Through this instant petition filed under Article 227 of the Constitution of India, challenge has been laid to the order dated 11.07.2017 of the Additional District Judge, Patiala, dismissing the application of the petitioner for rejection of the application for contempt of Court proceedings under order 39 Rule 2A C.P.C filed by respondent No.1 against him.

Put pithily, the application under Section 9 of the Arbitration and Conciliation Act (for short 'the Act') along with application under Order 39 Rule 1 C.P.C was filed by respondent No.1 against respondent Nos. 2 to 5, in which interim order dated 22.05.2012 was passed by the Additional District Judge, Patiala, directing the parties to maintain status

Civil Revision No. 140 of 2018

quo qua the bank guarantee kept as security in favour of Pepsu Road Transport Corporation, Patiala (for short 'PRTC, Patiala') of whom respondent Nos.2 to 5 are officials. Despite the knowledge of the said order of status quo, the petitioner being a Manager of the bank liquidated the security by encashing the bank guarantee in favour of PRTC, Patiala.

Resultantly, respondent No. 1 moved an application under Order 39 Rule 2A C.P.C for initiation of contempt proceedings against respondent Nos. 2 to 5 as well as the petitioner on the ground that despite status quo order dated 22.05.2012 in its favour, the respondents in connivance with each other encashed the bank guarantee given by it in favour of PRTC, Patiala, in violation of the aforesaid order, therefore, they were liable to be proceeded for committing contempt of the Court. It was alleged that the petitioner being a Bank Manager ought not to have encashed the bank guarantee on 23.05.2012, when the status quo order was very much communicated, well in advance, to him

Upon notice, the petitioner appeared and moved an application Annexure P-4 for dismissal of the said application on the ground that since the matter in dispute between the parties having been amicably compromised and settled and the initial arbitral award was got set aside and even the matter was referred again to the Arbitrator for re-adjudication, therefore, the application under Order 39 Rule 2A CPC filed by the respondent No. 5 was not maintainable.

After hearing both the sides, the trial Court, vide the impugned order, dismissed the aforesaid application of the petitioner.

Civil Revision No. 140 of 2018

Learned counsel for the petitioner contends that since the matter in dispute was amicably settled, therefore, the interim status quo order dated 22.05.2012 had merged into the final order, whereby respondent No. 1 has withdrawn his revision before this Court against the order of dismissal of his application under Section 9 of the Act by the Additional District Judge, Patiala, no cause of action survived in favour of respondent No. 1 as soon as he agreed with the remaining respondents for referral of the matter in dispute amongst them afresh to Arbitrator. In support of his contention, he has placed reliance upon **'Babu Lal Versus Deep Chand and others 2016 (2) PLR 485'**.

Having given thoughtful consideration to the submissions made by learned counsel for the petitioner, I find the instant petition completely devoid of any merit for the reasons to follow.

Application under Section 9 of the Act was moved by respondent No. 1 before the Additional District Judge, Patiala, for restraining the petitioner as well as respondent Nos. 2 to 5 from encashment of bank guarantee kept as security. Consequently, the Additional District Judge, Patiala, vide his interim order dated 22.05.2012, directed the parties to maintain status quo and to get the summons served to its opponents at own responsibility. The stand of the respondent No. 1 is that immediately after passing the order of status quo, the petitioner was well informed and communicated through fax and by hand also, who at the relevant time was working as a Bank Manager in Union Bank of India, Yamuna Nagar, on the same very day, which was

Civil Revision No. 140 of 2018

duly received by him. No contrary evidence was led by the petitioner to rebut the above stand of respondent No.1.

That apart, intimation was also sent to the respondent Nos. 2 to 5 by hand early in the next morning by fax and in person which too was duly received by them. Even the certified copy of the order dated 22.05.2012 was handed over to the petitioner as well as to the contesting respondents on the very next day i.e. 23.05.2012. Again the petitioner has not been able to rebut the above stand of respondent No.1.

The submissions of learned counsel for the petitioner that since the matter in dispute has already been adjudicated in between the parties inasmuch as the order dated 22.05.2012 had merged into the final order, and, therefore, the contempt application of the respondent No. 1 was liable to be dismissed by the Additional District Judge, Patiala, being not maintainable has no legs to stand for the simple reason that dispute between the parties is still pending before the Arbitrator. The respondent No. 1 or its opponent respondent Nos. 2 to 5 never compromised the dispute, rather they consented with each other to appoint a new Arbitrator to adjudicate the dispute in between them.

Hence, when no final adjudication has taken place yet qua the main dispute in between the parties, therefore, any order passed on the basis of consent of the parties to appoint new Arbitrator cannot said to be a final order. Rather, it is premature to say that the petitioner did not commit any contempt or he did not receive any order or had encashed the bank guarantee of around ₹ 60,00,000/- in favour of PRTC, Patiala, much

Civil Revision No. 140 of 2018

before the receipt of the communication of the status quo order dated 22.05.2012.

The facts and circumstances of the judgment referred to above and relied upon by learned counsel for the petitioner are not identical, rather or distinguishable to the facts of the case, and therefore, no benefit of the same whatsoever can be given to the petitioner.

In view of the discussion made above, the instant petition is dismissed.

**[ RAMENDRA JAIN ]**  
**JUDGE**

January 11, 2018  
*sachin*

|                           |   |        |
|---------------------------|---|--------|
| Whether Speaking/reasoned | : | Yes/No |
| Whether Reportable        | : | Yes/No |