

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

C.R.No.3281 of 2018

M/s Gauri Agro Industries Pvt Ltd

....Petitioner

Versus

M/s Grain and Pulses Eng Pvt Ltd and Ors.

....Respondents

Date of Order: 25.5.2018

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Harkesh Manuja, Advocate for the petitioner.

Mr. Shiv Kumar, Advocate for the respondents.

AMIT RAWAL, J (ORAL)

Present revision petition is directed against the impugned order dated 24.1.2018 whereby the Executing Court in execution petition preferred by the respondent/deGREE holder called upon the judgment debtor to deposit 75% of the amount awarded under exercise of powers under Section 19 of the Micro Small and Medium Enterprises Development Act, 2006 (for short "the Act").

Learned counsel for the petitioner/judgment debtor submitted that the petitioner has already availed the remedy of filing petition under Section 34 of the Arbitration and Conciliation Act, 1996 (P.6), however, in the execution petition preferred by the decree holder, the Court while treating the execution petition as objections on behalf of judgment debtor called upon the petitioner to deposit 75% of the awarded amount, which is not scope of provisions of the Act.

On the other hand, learned counsel for the respondent submitted that the execution petition was filed under Section 19 of the Act

wherein the judgment debtor was called upon to pay 75% of the amount, though, on instructions from his client, he did not dispute that the judgment debtor filed independent objection petition. He, thus urged for dismissal of the present petition.

After hearing learned counsel for the parties and appraising the paper book, I am of the view that the courts below treated the execution petition preferred by the Decree Holder as objection petition on behalf of the judgment debtor. Only the person, as per provisions of the Act *ibid*, who has been held liable as per award, is required to pay 75% of the awarded amount but not in execution petition, for, the decree holder is at liberty to seek execution of the award in accordance with law. Pendency of the objection petition is not disputed by the parties to the lis.

Consequently, present petition is allowed and the impugned order is set aside.

May 25, 2018
manoj

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable : Yes/No