

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

**CR No.5683 of 2015 (O&M)
Date of Decision: March 06, 2018**

Deepak Kumar Jindal

...Appellant

Versus

Punjabi University Patiala and another

...Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Puneet Jain, Advocate
for the appellant.

Mr. Gurpreet Singh Dhillon, Advocate
for respondents.

FATEH DEEP SINGH, J.

Through this civil revision petition the petitioner Deepak Kumar Jindal, a Contractor of the respondent/University has challenged an order dated 23.9.2014 Annexure P/1, whereby, the Court of learned Additional District Judge, Pathankot in execution preferred by the petitioner has declined the prayer of the petitioner to enable him to take away his articles lying at the spot.

Appreciating the submissions, it is there in the submissions of the two sides that the petitioner was allocated construction work by the respondent for the construction of premises of girls hostel at Talwandi Sabo regarding which agreement was duly executed between them. It was during the course of work the contract was terminated by the respondent and arbitration proceedings were got initiated by the petitioner

and which have since then attained finality. It is the case of the petitioner that machinery and shuttering material was lying at the site and he did not remove the same and that vide interim orders dated 2.6.2007 Annexure P/2 he was allowed to do so by the Court of learned Additional District Judge Patiala. It is the case of the petitioner that the respondent retained the substantial portion of the material which is lying at the spot for which he was constrained to file execution application in which the impugned orders were passed.

Appreciating the submissions and the rival contentions of the two sides, in the earlier order dated 2.6.2007 the Court had only allowed the applicant-petitioner to take away the machinery and material lying at the spot but it is duly conceded by the counsel for the two sides that the material and the machinery details are neither mentioned in the application much less in the orders so passed on 02.06.2007. Since the application under Section 9 of the Arbitration and Conciliation Act of the contract has since been disposed off and only rough estimation of material has been detailed but not the articles so lying at the spot. More so, in the light of opposition raised by learned counsel for the respondent, the petitioner as per his own stand has already taken away the articles in the light of orders of the Court below and even counsel for the respondent does not objects to any such article, if lying at the spot and rather has made efforts that the same was removed after application was moved through J.E. and gate passes were issued accordingly, the prayer does not hold much ground. The Court below has rightly observed that the matter in question was covered by the terms of Arbitration clause and that injury, if any,

caused to the petitioner for such a loss the only appropriate remedy for him is to approach the Civil Court seeking recovery of damages/cost of machinery and the articles so claimed by him and being a moot point can only be comprehensively adjudicated after parties lead their evidence and the same cannot be considered at such a juncture when there is no semblance of evidence earlier led to this effect. The impugned order does not appears to be in any manner illegal or perverse. Thus, finding no merits the present revision petition stands dismissed.

(FATEH DEEP SINGH)
JUDGE

March 06, 2018

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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No