

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

-.-

C.W.P No. 9672 of 2018

Date of decision: 15.05.2018

Jaswant Singh

... Petitioner

Vs.

Magma Finance Corp Ltd.

...Respondent

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. Ferry Sofat, Advocate, for the petitioner.

G.S.SANDHAWALIA, J. (Oral)

Admittedly, the award has been passed on 13.08.2013 (Annexure P/2), which is now being sought to be executed by the respondents in the Court of District Judge, Fatehgarh Sahib.

There is no dispute regarding that there is an alternative remedy for setting aside the award under Section 34 of the Arbitration and Conciliation Act, 1996 (for short, 'the Act')

In view of the alternative remedy, the writ Court remedy cannot be invoked at the asking in view of the law laid down in **United Bank of India Vs. Satyawati Tondon & Ors.** 2010(8) SCC 110, wherein it has been held as under:-

“30. The Court while exercising its jurisdiction under [Article 226](#) is duty-bound to consider whether:

- (a) adjudication of writ petition involves any complex and disputed questions of facts and whether they can be satisfactorily resolved;*
- (b) the petition reveals all material facts;*
- (c) the petitioner has any alternative or effective remedy for the resolution of the dispute;*
- (d) person invoking the jurisdiction is guilty of unexplained delay and laches;*
- (e) ex facie barred by any laws of limitation;*

(f) grant of relief is against public policy or barred by any valid law; and host of other factors.”

The Court in appropriate cases in its discretion may direct the State or its instrumentalities as the case may be to file proper affidavits placing all the relevant facts truly and accurately for the consideration of the Court and particularly in cases where public revenue and public interest are involved. Such directions are always required to be complied with by the State. No relief could be granted in a public law remedy as a matter of course only on the ground that the State did not file its counter-affidavit opposing the writ petition. Further, empty and self-defeating affidavits or statements of Government spokesmen by themselves do not form basis to grant any relief to a person in a public law remedy to which he is not otherwise entitled to in law."

Faced with this situation, counsel for the petitioner prays that he may be permitted to withdraw the present petition with liberty to avail his alternative remedy.

Ordered accordingly.

May 15, 2018
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(G.S. SANDHAWALIA)
JUDGE

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