

ARBITRATION PETITION (L) NO.264 OF 2018

V/s.

and anr ... Respondents

Ms. Aarti Kulkarni i/by Sachin V. Masurkar, for respondent

DATE : 9st APRIL, 2019.

1] Heard learned counsel for the petitioner and learned counsel
for the respondent.

2] This petition is filed under section 34 of the Arbitration and Conciliation act, 1996 (for short, “ACA”), whereby the petitioner, who is the father of the deceased borrower, in his capacity as legal representative of the borrower, is before the Court, challenging the impugned award dated 17th May, 2017, passed by the learned sole arbitrator.

3] At the outset, learned counsel for the respondent, on

instructions makes a statement that the vehicle which was hypothecated to the respondent has already been sold on 29th June, 2017 and an amount of Rs.12,84,500/- was recovered from the sale of the said vehicle. It is submitted that in view of the realisation of the amount due and payable under the loan agreement by the principal borrower the impugned award shall not be executed by the respondent. Statement is accepted.

4] Learned counsel for the respondent also fairly submits that after adjusting the loan amount which was due and payable by the principal borrower to the respondent, amount of Rs.2,33,005/- has remained in excess and which would be refunded to the petitioner along with interest at the rate of 9% per annum with effect from 29.6.2017, within two weeks from today. The approach of respondent in this regard is quite fair.

5] At this stage, learned counsel for the petitioner submits that although an amount of Rs.2,33,005/- is being offered for a refund, by the respondent, petitioner nonetheless would have a claim of a larger amount, inasmuch as the vehicle was sold for an amount of about Rs.12,00,000/- and total liability of the principal borrower according to the petitioner was only about 6,00,000/-. He, therefore, submits that the said amount as offered by the respondent would be accepted without prejudice to the rights

of the petitioner. These issues cannot be gone into the these proceedings and the petitioner is free to adopt appropriate proceeding as permissible in law in this regard.

6] Learned counsel for the petitioner submits that principal borrower Mr. Harindar Singh was not married and the father-petitioner is the only legal heir. While disbursing amount, learned counsel for the respondent submits that the appropriate indemnity would be taken from the petitioner in regard to the amounts being so refunded to secure the respondent from any other legal representative, if any, making any claim in regard to the said amount.

7] In the above circumstances, the petition would not warrant any further adjudication. It is accordingly disposed of. In view of the statement as made on behalf of respondent and by the following consent of the parties:-

Order

i) Respondent has agreed to refund to pay to the petitioner an amount of Rs.2,33,005/-, along with interest at the rate of 9% per annum from 29.6.2017, to be paid within two weeks from today, which the petitioner shall accept without prejudice to his rights and contentions to claim a larger amount..

ii) Learned counsel for the petitioner to inform the bank details of the petitioner within two days from today to enable respondent to remit the amount to the bank of the petitioner.

iii) The petition is accordingly disposed of.

[G. S. KULKARNI, J]