

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

Date of Decision: 04.09.2019

1. CR No.3638 of 2018(O&M)

Kamaljeet Singh

.....Petitioner

Versus

Hinduja Leyland Finance Limited and another

.....Respondents

2. CR No.3651 of 2018(O&M)

Kamaljeet Singh

.....Petitioner

Versus

Hinduja Leyland Finance Limited and another

.....Respondents

3. CR No.3655 of 2018(O&M)

Kamaljeet Singh

.....Petitioner

Versus

Hinduja Leyland Finance Limited and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

**Present:Mr. Sanjiv Gupta, Advocate
for the petitioner.**

**Mr. Neeraj Madan, Advocate
for respondent No.1.**

RAJ MOHAN SINGH, J.

[1]. Vide this common order, CR No.3638 of 2018 titled Kamaljeet Singh Vs. Hinduja Leyland Finance Ltd. and another, CR No.3651 of 2018 titled Kamaljeet Singh Vs. Hinduja Leyland Finance Ltd. and another and CR No.3655 of 2018 titled Kamaljeet Singh Vs. Hinduja Leyland Finance Ltd. and another are being disposed of. Facts are being culled out from CR No.3638 of 2018.

[2]. Petitioner has laid challenge to the order dated 19.04.2018 passed by Additional District Judge, Ludhiana, vide which application for release of vehicle was dismissed.

[3]. It appears from the record that respondent No.1 filed a petition under Section 9 of the Arbitration and Conciliation Act, 1996 read with Section 151 CPC for appointment of *ex parte* receiver to take possession of vehicle No.PB-11-BN-9555 and for permission to sell the vehicle in the absence of the petitioner and proforma respondent to settle the claim. Additional District Judge, Ludhiana vide order dated 29.03.2017 found that respondent No.1 has no option, but to invoke the provision of Section 9 of the Arbitration and Conciliation Act and in view of guidelines laid down in **Escort Finance Ltd. Vs. Hilton Rubber Ltd. and others, II (2003) BC 16 (Delhi)**

accepted the petition by issuing following directions:-

- “1. The ADCP Traffic, Patiala, is hereby appointed as ex-parte receiver with directions to forthwith seize vehicle make AL 3718 IL bearing REG. NO. PB-11-BN-9555, ENGINE NO.EVHZ418646 AND CHASSIS NO.MB1NACFCXERVK4970, whose receiver fees Rs.2500/- shall be paid by the petitioner;*
- 2. the receiver will release the vehicle to the respondents, if the respondent make payment of the disputed amount to the petitioner, at the time of seizure of the vehicle ibid;*
- 3. the petitioner will appoint an arbitrator within a period of one month from today, for adjudication of the matter in dispute;*
- 4. the receiver shall also take photographs of the seized vehicle from the different angles; and*
- 5. in case during the period of 30 days, the arbitrator is not appointed, the seized vehicle shall be returned to the respondent.”*

[4]. Perusal of directions No.3 and 5 would show that Arbitrator was to be appointed within 30 days from the date of passing the order dated 29.03.2017 and in case, the Arbitrator was not appointed within the time prescribed, the seized vehicle was to be returned to the petitioner herein.

[5]. Admittedly, the Arbitrator was appointed on 16.05.2017/23.05.2017. The application was filed by the petitioner for giving direction to respondent No.1 to release the

vehicle in view of non-compliance of directions No.3 and 5.

[6]. The said application was contested by respondent No.1.

[7]. Additional District Judge, Ludhiana while dismissing the application vide the impugned order has pointed out that the prescribed period is of 90 days as per amended provision. If the Court passes an interim measure of protection under the provision before commencement of arbitral proceedings, then the arbitral proceedings shall have to commence within a period of 90 days from the date of such order or within such time as the Court may determine.

[8]. During course of hearing, an effort was made to strike an amicable resolution of dispute. Vide order dated 09.07.2019, both the parties were directed to be present in Court. The interaction between the parties has not yielded any positive result in the context of amicable resolution of dispute. The proposal put forward by respondent No.1 has not been accepted by the petitioner towards full and final settlement of the claim of respondent No.1 arising out of three vehicles.

[9]. Both the parties have different views on the aforesaid subject, but the fact remains that the Arbitrator had already proceeded to pass the award on 23.07.2018, to which no objection has been filed by the petitioner under Section 34 of

the Arbitration and Conciliation Act. The contention of learned counsel for the petitioner that the petitioner was not served during arbitral proceedings has been refuted by learned counsel for respondent No.1 by referring to the dates and events took place during arbitral proceedings, wherein the petitioner was shown to be served by process of the Court.

[10]. At this stage, this Court is not in a position to make any conclusive opinion on merits of the case. Since the award has already been passed on 23.07.2018 and the petitioner could have resorted to his legal remedies in accordance with law, therefore, I refrain from commenting upon merits of the case as the same may prejudice the case of the petitioner in the event of availing his legal remedies in accordance with law.

[11]. Since the award has already been passed and there is no challenge made to the said award by the petitioner, therefore, this Court finds no occasion to interfere in the revision petitions. All these revision petitions are accordingly dismissed.

04.09.2019

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**(RAJ MOHAN SINGH)
JUDGE**

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No