

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-4310-2019 (O&M)

Date of Decision: December 05, 2019

M/s PKF Finance Limited

..... Appellant

VERSUS

Balbir Singh and another

.... Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present None.

JAISHREE THAKUR, J.(Oral)

This is an appeal that has been filed by M/s PKF Finance Limited seeking to challenge the order of the Addl. District Judge, Jalandhar whereby an application filed under Section 9 of the Arbitration and Conciliation Act, 1996 for restraining the respondents from selling off their share of the land has been dismissed.

This case is being taken up for hearing today. Even on the last two dates, no one has put in an appearance on behalf of the appellant. Same is the situation today. It seems that the appellant is no more interested in pursuing the instant appeal.

In brief the facts are that the respondent- Balbir Singh approached the applicant for advancement of a loan for the purchase of a vehicle make Bharat Benz 2523C, model 2017, Registration No. PB-06AK-

2754 and entered into a loan agreement dated 07.09.2017. As the respondent failed to pay due installments in terms of the agreement, an amount of ₹27 lakhs odd became outstanding in the loan account. The appellant herein issued a legal notice dated 03.09.2018 for referring the matter to the Arbitrator and also filed a separate petition for appointment of a receiver to take custody of the hypothecated vehicle. To secure the interest of the financial company an application under Section 9 of the Arbitration and Conciliation Act, 1996 was filed. The District Judge dismissed the application on the ground that there is nothing on record to show that the borrower, namely the respondent was trying to sell his share and defeat the claim of a company. Aggrieved against the said dismissal the instant appeal has been filed.

As already noticed, this matter has been adjourned twice on request of the learned counsel for the appellant and even today there is no representation on his behalf. A perusal of the said order would reflect that the District Judge, Jalandhar has taken into account that proceedings had already been initiated for appointment of receiver to take custody of the hypothecated vehicle. By relying upon a judgment rendered in ***Union of India Vs. M/s Sarvana Constructions Pvt. Ltd., 2010 AIR (Madras) 6,*** wherein it has been held that an application under Section 9 of the Arbitration and Conciliation Act, 1996 must relate to the preservation and the interim protection of custody of sale of any goods which would be the subject matter of the arbitration agreement, the District Judge held that there was nothing on the record to hold that the land sought to be attached was part of the hypothecation agreement.

Having perused the order of the District Judge, Jalandhar this Court is of the opinion that there is no infirmity in the said order.

Dismissed.

December 05, 2019

seema

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned	Yes.
Whether reportable	No.