

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

CR-7891-2019(O&M)

Date of decision: 13.01.2020

Avtar Singh and another

.....Petitioners

Versus

The Executive Engineer, UT, Chandigarh

.....Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr.Ashok Bhardwaj, Advocate for the petitioners

ANIL KSHETARPAL, J. (ORAL)

Judgment debtors have filed this revision petition against orders passed by Additional District Judge (Executing Court) dated 3.10.2019 (Annexure P-12), 16.10.2019 (Annexure P-13) and 8.11.2019 (Annexure P-14).

An arbitration award dated 18.6.2013 under the Arbitration and Conciliation Act, 1996 (hereinafter referred to as 'Act of 1996') was passed against the petitioners. No objections under Section 34 of the Act of 1996 were filed. The award is enforceable as a decree of the Court under Section 36 of the Act of 1996.

By order dated 30.10.2019 the objection to the execution petition filed by the judgment debtors-petitioners on the ground that Court at Mohali has no territorial jurisdiction has been dismissed. It is undisputed that judgment debtors-petitioners are owners of immovable

property in Mohali. Petitioners are also residents of SAS Nagar, Mohali. Hon'ble the Supreme Court in a recent judgment in the case of **Sundaram Finance Limited Vs. Abdul Samad and another** (2018) 3 SCC 622 has held that the execution petition under Section 36 for executing the award can be filed as per the provision of Code of Civil Procedure.

By order dated 16.10.2019, another set of objections filed by the judgment debtors-petitioners in the execution petition have been dismissed. In these objections, judgment debtors-petitioners alleged that reference to the Arbitrator was beyond time.

In the considered view of this Court, such objection at this stage, cannot be permitted to be taken, particularly, when the award passed has become final.

Learned counsel for the petitioners has submitted that sole Arbitrator could not be appointed by a party after coming into force of Arbitration and Conciliation Act, 1996. Learned counsel, on being pointed out, admitted that this objection was not raised before the learned Executing Court.

Keeping in view the fact that judgment debtors-petitioners did not object to the execution of the decree on the ground that the award passed by the sole Arbitrator is without jurisdiction, therefore, this Court does not find any reason to permit the petitioners to press the contention for first time in this Court.

Learned counsel for the petitioners insists that the judgment

passed in the case of New Gurindra Handloom House Vs. Sheetal Drape (I) Pvt. Ltd and another 2010 (66) RCR (Civil) 803 be referred. Learned counsel for the petitioners contends that it has been held in the aforesaid judgment that the award passed by the Arbitration Tribunal consisting of sole Arbitrator is not executable. I have carefully read the judgment in case of New Gurindra Handloom (supra). The aforesaid judgment is in the facts of that case. The Court in the aforesaid case found that there was no agreement for referring the dispute for decision before the Arbitrator. Hence, aforesaid judgment is not applicable, particularly, when this Court is not permitting the petitioner to raise an argument for the first time in the Court of revision without having raised the same before the executing court.

Dismissed.

13.01.2020

rekha

Whether speaking/reasoned

Whether Reportable

(ANIL KSHETARPAL)

JUDGE

Yes / No

Yes / No