

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

FAO-1074-2019 (O&M)

Date of decision: 3rd May, 2023

Capital First Ltd (Now IDFC Bank Ltd)

...Appellant

Versus

Food Stuff Trading Pvt. Ltd and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. A.M. Punchhi, Advocate for the appellant.
Mr. Atul Aggarwal, Advocate for the respondents.

AVNEESH JHINGAN, J (Oral):

1. This appeal under Section 37 of Arbitration and Conciliation Act, 1996 (for short 'the Act') is filed aggrieved of dismissal of application filed under Section 9 of the Act.

2. The brief facts are that the appellant disbursed loan to the respondent for purchase of car. The respondent defaulted in repayment of loan. The arbitration proceedings initiated at the instance of appellant culminated in award dated 29th September, 2018. The respondent was directed to pay ₹6,64,730/- along with interest at the rate of 24% per annum as calculated up to 31st December, 2017 and thereafter, at the rate of 18% per annum from the date of award till realisation of the amount. The operational part is reproduced below:-

“ (a) That the Respondents are directed to pay to the Claimant company a sum of Rs.6,64,730/- within 30 days from today along with cost, expenses and interest @ 24% per annum as calculated upto 13.12.2017 and thereafter @ 18% per annum from the date of award till the date of payment by the respondents or realization thereof by the Claimant.

(b) The Claimant Company would be entitled to sell the said hypothecated vehicle i.e. Mercedes Benz C 200 K bearing

registration no. CH04L1888 to recover its dues by first appropriating sale proceeds towards any reasonable expenses incurred by it and then balance amount be appropriated against the outstanding dues as awarded herein para (a). If there is any short fall between the sale proceeds and the amount found due and payable by this tribunal, the Claimant Company shall recover the outstanding dues from the Respondents by enforcing this award U/s 36 of Arbitration and Conciliation Act, 1996. In case of any surplus amount, the same shall be refunded to the Respondents.

(c) In case of failure to pay the above amount within a stipulated time, the same shall be recovered by attachment and sale of the vehicles/personal assets/properties of the Respondents.”

3. The award was not challenged by either of the party. However, petition under Section 9 of the Act filed by the appellant was dismissed on 3rd October, 2018 i.e. after passing of the award.
4. Heard learned counsel for the parties.
5. It is undisputed fact that arbitral award was passed prior to the decision of Section 9 application. There was no occasion for the Court to proceed with Section 9 proceedings as the decree holder had a right to get the award executed, in such circumstances no interference is called for in the appeal.
6. Needless to say that the decree holder would be at liberty to avail remedies in accordance with law for execution of the award.
7. Since the main appeal is disposed of, pending application, if any is rendered infructuous.

[AVNEESH JHINGAN]
JUDGE

3rd May, 2023
Parveen Sharma

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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |