

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

Civil Revision No. 705 of 2020 (O&M)

DECIDED ON: 17th January, 2023

Shriram Transport Finance Co. Ltd.

.....PETITIONER

VERSUS

Ranbeer Singh and another

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. Gaurav Sharma, Advocate for petitioner.

AVNEESH JHINGAN, J (ORAL)

This revision petition is filed for setting aside the impugned order dated 7.12.2019 rejecting the prayer for restoration of the execution application.

Brief facts are that an award was passed in favour of the petitioner in arbitration proceedings No.ARB/JN/STFC/889/2015. An execution application filed was withdrawn on 9.3.2018 by filing an application supported by an affidavit. Later an application was filed on 16.5.2019 pleading that the execution petition was inadvertently withdrawn and the Judgment-debtor had not cleared the account. The application was dismissed considering that the application was not supported by an affidavit, it was barred by limitation and that execution was withdrawn on an application filed by learned counsel for decree-holder stating that nothing remains due to be recovered from the judgment-debtor and decree is fully satisfied.

On 5.12.2022, this Court passed following order:

"Perusal of para no.5 of the impugned order dated 07.12.2019 would indicate that order dated 09.03.2018 passed by the Court was on the basis of an application moved by learned counsel for the decree holder for withdrawal of the execution petition."

Learned counsel for the petitioner seeks time to verify whether it was on the basis of oral instructions of learned counsel for the petitioner or on a specific application filed by the decree holder for withdrawal of the execution petition.

Adjourned to 17.01.2023."

Mr. Gaurav Sharma, Advocate for the petitioner on specific instructions from his client submits that the application filed for withdrawal of execution petition was duly supported by an affidavit.

The restoration of the execution was sought on the ground that the Branch Manager of the Decree-holder telephonically informed that the Judgment-debtor has cleared the loan amount. As per the learned counsel for petitioner the application for withdrawal of the execution was duly supported by an affidavit.

It would not be out of place to mention that on 18.11.2017 the Judgment-debtor Ranbeer Singh made a statement that payment in pursuance to compromise would be made on or before 20.1.2018. The application for withdrawal of execution was filed on 9.3.2018. No argument has been addressed on the issue that application for restoration was not accompanied by an affidavit and it was barred by limitation.

No case is made out for interference in the impugned order.
Dismissed.

Since the main case has been dismissed, pending application, if any is rendered infructuous.

(AVNEESH JHINGAN)
JUDGE

17th January, 2023

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Whether speaking/reasoned *Yes*
Whether reportable *No*