

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 533 of 2022 (O&M)

DECIDED ON: 24th March, 2023

Sahab Dayal @ Sahab Ram

.....PETITIONER

VERSUS

Shri Ram Transport Finance Company Limited and another

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. S.S. Sahu, Advocate for petitioner.

Mr. Gaurav Sharma, Advocate for respondent No.1.

AVNEESH JHINGAN, J (ORAL)

C.M. No.5315-CII of 2023

This is an application for restoration of revision petition which was dismissed for non-prosecution on 15.3.2023.

For the reasons stated in the application, which is duly supported by an affidavit and after hearing learned counsel for the parties, the application is allowed and the revision petition is ordered to be restored to its original number.

With the consent of learned counsel for parties, the main case is taken up for hearing today itself.

Main Case.

This revision petition is filed aggrieved of order dated 16th November, 2021, passed by the Executing Court issuing warrant of auction of attached property.

Notice of motion was issued on 27th May, 2022 and following order was passed:

Neutral Citation No. 2023:PHHC:043581

Learned counsel for the petitioner submits that petitioner had financed a vehicle (Chotta Hathi) for a sum of Rs. 2,35,000/-. Down payment of Rs. 50,000/- was made at the time of purchase on 26.11.2009. Petitioner has regularly paid installments for one year but defaulted in some of installments, thereafter. A sum of Rs.96,000/-, it is submitted stood paid. Respondent-company however immediately took possession of the vehicle and sold the same in an illegal manner. Ex- parte award dated 30.03.2015 for a sum of Rs.4,23,092/- alongwith 10 % interest w.e.f. 29.05.2014 till payment without any detail of the amount to be deducted qua sale of the vehicle and the amount already deposited by the petitioner, was passed. In this view of the matter impugned order dated 16.11.2021 has been incorrectly passed by learned Executing Court and petitioner's livelihood is sought to be snatched by auction of his land.

Learned counsel for the petitioner further submits that petitioner undertakes to deposit outstanding amount after deduction of the amount received by the respondents on account of sale of the vehicle.

Notice of motion for 22.08.2022.

In the meantime, auction of the petitioner's agricultural land shall remain stayed till the next date of hearing."

The brief facts are that the petitioner availed a loan facility of Rs.2,35,000/- from respondent No.1 (hereinafter referred to as 'the respondent'). The loan was to be re-paid in 42 monthly installments. The petitioner defaulted in repayment of loan. As per the terms and conditions, the dispute was referred to arbitrator and the proceedings culminated in award dated 30th March, 2015. It is an admitted case that the petitioner has not challenged the award and was proceeded ex-parte in execution proceedings. On a pointed query from the counsel for petitioner whether any steps were taken by the petitioner to comply with the statement made before this Court on 27th May, 2022, The contention is that no amount has been deposited.

The decree-holder is having an award of 2015 which attained finality. After more than seven years of passing of award and even after giving

an undertaking before this Court to clear the loan account, the petitioner has taken no steps to find the outstanding amount or to make payment for clearance thereto.

No case is made out for interference.

Dismissed.

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

24th March, 2023
reema

(AVNEESH JHINGAN)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>