

Civil Revision No. 1066 of 2023

[1]

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

Civil Revision No. 1066 of 2023 (O&M)

Date of decision: 16th February, 2023

Satpal

Petitioner

Versus

M/s Sundaram Finance Limited and another

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Krishan Kumar, Advocate for the petitioner.

AVNEESH JHINGAN, J (Oral):

This revision petition is filed seeking setting aside of award dated 22.3.2012 and order dated 2.11.2022 dismissing the objections filed in the execution proceedings.

The brief facts are that the petitioner availed loan facility of Rs.17,85,600/- for purchase of JCB machine. The loan was to be repaid in 46 monthly installments. After paying seven installments, the petitioner defaulted. On 22.12.2009, the petitioner surrendered JCB machine to the respondent No. 1 (for short, 'the respondent'). The respondent filed an application under Section 9 of the Arbitration and Conciliation Act, 1996 (for short, 'the Act') which was dismissed on 21.4.2012. The dispute between the parties was referred to the arbitrator and the arbitration proceedings culminated into award dated 22.3.2012. The objections filed under Section 34 of the Act were dismissed as time barred. An appeal under Section 37 of the Act was preferred. This court dismissed the appeal concluding that filing of the objections after four years was an after-thought step taken by the petitioner.

The execution filed in 2014 was withdrawn on 16.12.2016. The second execution petition was filed in which the petitioner filed

objections stating that the award is a result of fraud. The objections were dismissed on 2.11.2022. The petitioner filed appeal under Section 37 of the Act and after realizing that the appeal is not maintainable, the same was withdrawn on 6.2.2023. Hence the present petition.

Learned counsel for the petitioner submits that the respondent by not disclosing to the arbitrator the return of JCB machine and the fact that application under Section 9 of the Act filed by the respondent was dismissed committed fraud.

The contention raised by learned counsel for the petitioner lacks merit. The conduct of the petitioner is evident from the fact that filing of objections under Section 34 of the Act was found to be an after-thought to stall the execution proceedings. By raising plea of fraud, an attempt is to challenge the quantum of the amount awarded by the arbitrator. In other words, value of JCB machine was not adjusted. The award had attained finality. At this belated stage, the petitioner cannot be permitted to challenge the award and the quantification of the amount by an indirect manner.

The revision petition is dismissed.

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

[AVNEESH JHINGAN]
JUDGE

16th February, 2023
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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |