

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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Date of decision: 16.06.2023

CR-3630-2023 (O&M)

NEETU SINGHPetitioner
VERSUS

NEERAJ GROVER AND OTHERSRespondents

(2)

CR-3644-2023 (O&M)

NEETU SINGHPetitioner
VERSUS

NEERAJ GROVER AND OTHERSRespondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: - Mr. Keshav Pratap Singh, Advocate
for the petitioner.

Mr. Vipul Sachdeva, Advocate
for respondent No.3 in both cases.

VINOD S. BHARDWAJ, J. (Oral)

CM-10853-CII-2023 in CR-3630-2023 &
CM-10944-CII-2023 in CR-3644-2023

Applications are allowed as prayed for.

MAIN CASES

Both these Civil Revision Petitions are being disposed of by a
common order since the disputes arises from two separate orders passed in

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two separate execution petitions bearing Execution Case No. 618-2020 and 619 of 2020 respectively between the same parties & pending before the same Court. The grounds of challenge are also identical. Facts are noticed from CR-3630-2023.

Counsel for the petitioner contends that an arbitral award had been passed against the petitioner and respondent No.3 by the sole Arbitrator in Arbitration case No. 103 of 2019. Aggrieved of the said arbitral award, objections under Section 34 of the Arbitration Conciliation Act, 1996 were preferred by the petitioner before the Additional District Judge, Gurugram. However, vide judgment dated 13.05.2023, the objection petition was dismissed by the Additional District Judge, Gurugram. The Zimni order recorded for the proceeding reads as under:

“Arguments heard. Vide my separate judgment of even date the petition under Section 34 of the Arbitration and Conciliation Act filed by applicant Neetu Singh stands dismissed. Memo of cost be prepared. File be consigned to record room.”

He submits that the certified copy of the judgment was, however, not delivered despite the petitioner having applied for the same on the same date.

The same Court was also seized of the execution petition that had been filed by the respondents and vide a separate order of the same date i.e. 13.05.2023 in the execution petition, it was ordered as under:

“Arguments heard. Since objections filed separately by respondent no.2 have been dismissed and since application moved by respondent no. 1 for restoration of objection petition has been dismissed, hence in execution of the

award Reader attached to the court of undersigned is appointed as LC in this case. He is directed to execute the sale deed in favour of applicant/decree holder and to do all other necessary formalities incidental to execution of the same. Fee of the LC is assessed as Rs.5000/-. Decree holder is directed to furnish the proposed sale deed. Warrant of attachment be also issued against other properties of respondents to recover the amount mentioned in para b of the prayer clause of execution petition no. 619-2020. Now the case is adjourned to 21.7.2023 for awaiting report.”

It has been informed that the Reader to the Court of the Additional District Judge, Guguram was appointed as the Local Commissioner for execution of the sale deed and a further direction was issued to attach other properties of the petitioner so as to recover the balance amount as awarded.

Counsel for the petitioner has argued that the petitioner was deliberately not handed over the copy of the judgment so as to deprive him of his right to prefer an appeal under Section 37 of the Arbitration & Conciliation Act, 1996 and that the respondents are deliberately avoiding appearance before this Court to defeat the statutory right of the petitioner to avail the remedy of appeal and to seek execution of the award in the meanwhile. He submits that respondent No.1 ran away at the time when the summon was sought to be served upon him while respondent No.2 has already been served through his wife. However, they have chosen not to appear despite being aware of the present proceedings.

Counsel for respondent No.3 has already entered appearance.

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Counsel for the petitioner submits that his prayer is currently restricted only to the extent of staying further proceedings in the execution, even though the sale deed has already been executed pursuant to the order passed by the Additional District Judge, Gurugram, for a period of 03 weeks so as to enable the petitioner to prefer an appeal under Section 37 of the Arbitration & Conciliation Act, 1996 and to avail his remedies as per law.

Since the respondents have chosen not to appear in the proceedings before this Court despite being aware of the proceedings and taking into consideration the circumstances noticed above, I deem it appropriate to dispose of these petitions without awaiting any further for the respondents and to balance the competing rights, with a direction that that award of the sole Arbitrator shall not be executed in execution petition Nos. 618 of 2020 and 619 of 2020 for a period of 03 weeks from today or till hearing of their appeal, whichever is earlier, so as to enable the petitioner to take recourse to his statutory remedies in accordance with law. Further, the respondents shall also not create any third party right viz. a viz. the property for which the sale deed has already been executed in their favour till the period of three weeks as noticed above.

The revision petitions are disposed of.

(VINOD S. BHARDWAJ)
JUDGE

JUNE 16, 2023
Vishal Sharma

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No