

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

228

FAO-1925-2016(O&M)

Date of decision : 02.03.2023

Gurmej Singh

.....Appellant

VERSUS

Kotak Mahindra Bank Ltd.

....Respondent

CORAM:- HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. K.B. Raheja, Advocate for the appellant.

Mr. Amit Sharma, Advocate for
Ms. Pooja Chopra, Advocate for the respondent.

AVNEESH JHINGAN, J. (ORAL)

This is an appeal under Section 37 of Arbitration and Conciliation Act, 1996 (for short, 'the Act') aggrieved of order dated 14.03.2016, passed in an application under Section 9 of the Act.

The brief facts are that the appellant availed the loan facility of Rs.7,35,000/- from the respondent for purchase of vehicle. The loan was to be repaid in 48 monthly installments. There was default in repayment. The respondent filed an application under Section 9 of the Act for appointing a receiver to re-possess the hypothecated vehicle. The application was allowed by an ex-parte order dated 14.03.2016. Hence, the present appeal.

Notice in the appeal was issued on 08.04.2016 and the operation of the impugned order was stayed, subject to payment of Rs.80,000/-. There was a dispute with regard to the payment of Rs.80,000/-. The stand of the appellant was that the amount was not

accepted whereas on the other hand, the respondent stated that it was not

paid. On 4.10.2016, this court directed that the amount be deposited with the Registrar General of this court against valid receipt.

It is admitted by learned counsel for the appellant that during the pendency of the appeal, the possession of the vehicle was taken by the respondent-bank.

This appeal is pending since 2016 the appellant has not got initiated arbitration proceedings.

Relief under Section 9 of the Act is an interim measure. The cause of action no longer survives as possession of the vehicle was taken by the bank during the pendency of the appeal. Since there is no arbitration proceedings pending or initiated as on date, no interference is called or.

The appeal is dismissed.

Needless to say that the parties would be at liberty to avail remedies in accordance with law for redressal of surviving grievances.

The amount of Rs.80,000/- deposited by the appellant with the Registrar of this court be refunded to him on compliance of necessary formalities.

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

2nd March, 2023

Nisha-I

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No