

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO No. 1542 of 2017 (O&M)

Date of decision: 11th April, 2023

Dharampal Singh

Appellant

Versus

Shri Ram Transport Finance Company Ltd. and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Sandeep Bansal, Advocate for the appellant.
Mr. Pradeep Pawar, Advocate for Mr. Ravi Chadha,
Advocate for respondents No. 1 and 2.

AVNEESH JHINGAN, J (Oral):

This appeal under Section 37 of the Arbitration and Conciliation Act, 1996 (for short, 'the Act') is filed aggrieved of the dismissal of objections under Section 34 of the Act.

The brief facts are that on 15.12.2006, the appellant borrowed loan of Rs.2,50,000/- from respondent No. 1 (hereinafter referred to as 'the respondent') for purchase of tractor. The loan was to be repaid in 47 monthly installments. The appellant defaulted in repayment and arbitration proceedings were initiated at the instance of the respondent. The appellant was served through publication. An *ex-parte* award dated 17.12.2013 was passed. The respondent was held entitled to recovery of Rs.7,41,064/- along with interest @ 12% per annum from the date of filing the petition till final realization. The objections under Section 34 of the Act filed by the appellant were dismissed on 11.7.2016, hence the present appeal.

Learned counsel for the appellant submits that the respondent had re-possessed the financed tractor on 26.4.2008 but the said aspect was not considered by the arbitrator. It is argued that the arbitrator erred in passing the award at the back of the appellant.

Learned counsel for the respondent defends the impugned order.

Heard learned counsel for the parties and perused the paper book.

It is not disputed by learned counsel for the appellant that possession of the tractor was taken by one Bindu and the appellant had got lodged an FIR against Bindu. The allegations were that he had taken his tractor representing himself to be the employee of the respondent but had not handed over the tractor to the company. It is not the case set up that the tractor was taken and sold by the respondent.

The appellant could not be served and service was effected by publication in newspaper 'Dainik Sawera'. The only plea taken under Section 34 of the Act was that the said newspaper has no circulation in the residential area of the appellant. In the impugned order, it has been specifically recorded that legal notice dated 30.8.2013 and award dated 17.12.2013 were sent to the appellant. The appellant had not denied the service of the legal notice. Moreover, apart from making a bald statement there is no challenge to service.

The scope of interference under Section 37 of the Act is limited. Reference in this regard is made to the decision of the Supreme Court in *Haryana Tourism Limited v. M/s Kandhari Beverages Ltd.*,

2022(3) SCC 237. There cannot be re-appreciation of evidence under Section 37 of the Act.

In view of the above, the appeal is dismissed.

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

[AVNEESH JHINGAN]
JUDGE

11th April, 2023
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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |