

2024:PHHC:057049
**126 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

1.CR-616-2022 (O&M)

Prudent ARC Limited
....Petitioner

Versus

Kaliber Associates Pvt. Ltd. and another
..Respondents

2.CR-754-2022 (O&M)

Prudent ARC Limited
....Petitioner

Versus

Appreciate Fincap Pvt. Ltd. and another
..Respondents

Date of decision: 25.04.2024

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Kunal Dawar and
Ms. Shruti Mandhotra, Advocates for the petitioner
in both the petitions

Mr. Arihant Jain and
Mr. Kanish Jindal, Advocates for respondent no.1
in CR-754-2022

ANIL KSHETARPAL, J (Oral)

1. With the consent of the learned counsel representing the parties, two connected revision petitions challenging two different orders passed by the court while disposing of objection petitions of assignee of a secured creditor shall stand disposed of.

2. In CR-616-2022, the Executing Court has held that no objection by the assignee can be filed. In CR-754-2022 the court has held that the objection petition filed by the secured creditor has been

disposed by the Delhi High Court on 31.08.2016 and the petitioner can avail remedy against the aforesaid order.

3. In substance, the dispute is in between the secured and unsecured creditor. The respondent-decree holder is an unsecured creditor whereas the Union Bank of India was a secured creditor, which has assigned its rights in favour of the petitioner. While executing a decree passed by the court, at the behest of unsecured creditor, the secured creditor has a right to establish that they have a preferential right. The Executing Court in CR-616-2022 totally overlooked Section 47 as well as Order XXI Rule 58 of the Code of Civil Procedure, 1908. In CR-754-2022 the Delhi High Court only transferred the execution petition to the court situated at Sonapat. The objection petitions filed by the secured creditor was never dismissed.

4. Keeping in view the aforesaid facts, the impugned orders passed on 12.11.2021 and 07.10.2021 are set aside. The Executing Court is directed to decide the objection petitions filed by the petitioner in both the cases in accordance with law.

5. Both petitions stand allowed.

6. All the pending miscellaneous applications, if any, are also disposed of.

25.04.2024

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE