



CR-2349-2023 (O&M)

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

(240)

CR-2349-2023 (O&M)

DATE OF DECISION:- 20.08.2024

HARYANA STATE WAREHOUSING CORPORATION, PANCHKULA**...PETITIONER****VERSUS****RAM AVTAR GUPTA****...RESPONDENT****CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL**

Present:- Mr. Gaurav Mohunta, Advocate
for the petitioner.

Mr. Wazir Singh, Advocate
for the respondent.

SUVIR SEHGAL, J. (Oral)

1. This revision petition has been filed under Article 227 of the Constitution of India for setting aside order dated 22.02.2023, Annexure P-1, passed by the learned Additional District Judge, Karnal.
2. Factual matrix leading to the filing of the petition is that by allotment letter dated 11.08.2010, respondent was given an order for supply and installation of Galvalume Sheet for varandha roofing for various food storage godowns constructed by the petitioner. Some disputes arose between the parties, which were referred for determination to an Arbitrator, who passed an award on 27.06.2016 in favour of the respondent. Petitioner filed objections under Section 34 of the Arbitration and Conciliation Act, 1996 (for short "the Act"), which were rejected by the learned Additional District Judge, Karnal on



11.08.2021. FAO-839-2022, filed by the petitioner, was dismissed by this Court on 06.07.2022 and the order was affirmed upto the Supreme Court. Respondent filed an execution petition, Annexure P-2, which was assigned to the Court of learned Civil Judge (Junior Division), Karnal. Petitioner filed objections, Annexure P-3, to the maintainability of the execution petition. By order dated 23.05.2022, Annexure P-5, Executing Court rejected the objection regarding the maintainability and by a subsequent order passed on 08.09.2022, Annexure P-9, dismissed the objections filed by the petitioner. Assailing both the orders, petitioner approached this Court by filing CR-4247-2022, which was disposed off by order dated 20.01.2023, Annexure P-4, whereby order dated 08.09.2022, Annexure P-9, passed by the Civil Judge (Junior Division), Karnal was set aside and it was directed that the execution petition shall be treated as returned to the respondent. The execution petition was then assigned to the learned Additional District Judge, Karnal, who vide impugned order dated 22.02.2023 directed the parties to address arguments on the objection petition, which was already on the record.

3. Counsel for the petitioner has argued that once the execution petition stood returned by virtue of order passed by this Court, the Executing Court was bound to start the proceedings *de novo*. He has made a reference to Order 7 Rule 10 of the Code of Civil Procedure, 1908 as well as relied upon the judgments of the Supreme Courts in ***Oil and Natural Gas Limited Versus M/s Modern Construction & Co. (2014) 1 SCC 648*** as also on ***M/s EXL Carriers Versus Frankfinn Aviation Services Pvt. Ltd., AIR 2020 SC 3670*** to buttress his argument.



4. On the other hand, counsel for the respondent has opposed the petition and supported the order under challenge.
5. I have heard counsel for the parties and considered their respective submissions.
6. At the outset, it is apposite to notice and reproduced hereunder the provision as contained in Order 7 Rule 10 of the Code of Civil Procedure, 1908:-

“10. Return of plaint.— (1) Subject to the provisions of rule 10A, the plaint shall at any stage of the suit be returned to be presented to the Court in which the suit should have been instituted.

Explanation.— For the removal of doubts, it is hereby declared that a Court of appeal or revision may direct, after setting aside the decree passed in a suit, the return of the plaint, under this sub-rule.

(2) Procedure on returning plaint. —On returning a plaint, the Judge shall endorse thereon the date of its presentation and return, the name of the party presenting it, and a brief statement of the reasons for returning it.”

7. A bare perusal of the above reproduced provision shows that it is applicable to a civil suit. The provision provides that where a civil suit has been instituted in a Court, which does not have the competence to try it, the plaint can be returned, at any stage of the suit, for presentation to the Court where it should have been instituted. The provision is not applicable to the execution proceedings. There is an inherent fallacy in the argument raised on behalf of the petitioner, which deserves to be simply noticed and rejected. There is no illegality or infirmity in the order passed by learned Additional District Judge, Karnal.



8. For the reason recorded above, petition is devoid of merit and is dismissed.
9. As the main case has been decided, miscellaneous applications shall stand disposed of.

(SUVIR SEHGAL)
JUDGE

20.08.2024
kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No