

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-2552-2024
Date of decision:-30.04.2024

M/s Welkin India through its Partners

...Petitioners

Versus

Punjab Mandi Board and another

...Respondents

CORAM : HON'BLE MR. JUSTICE SUVIR SEHGAL

Present : Mr.Akshay Bhan, Senior Advocate with
Mr.Santosh Kumar Sharma, Advocate
for the petitioners.

Ms.Deepali Puri, Advocate
for respondent No.1.

Mr.Nikhil Handa, Advocate
for respondent No.2.

SUVIR SEHGAL, J.(ORAL)

1. By way of present revision petition filed under Article 227 of the Constitution of India, petitioner has approached this Court for issuance of a direction to the Executing Court to decide four applications, Annexures P16 to P20, filed by the petitioner. Another prayer has been made for directing respondent No.1 to deposit the balance amount of the award of Rs.5,36,52,978/- with the Executing Court and that the same may not be released till the time applications

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filed by the petitioner are decided.

2. Counsel for the petitioner submits that a dispute arose between the parties, which was decided by award dated 03.03.2021 and objection preferred by respondent No.1 were dismissed by Commercial Court, Chandigarh by order dated 17.10.2023, Annexure P15. He submits that part payment under the award has been made by respondent No.1 to respondent No.2 by electronic transfer. By making a reference to Annexure P22, he submits that respondent No.1 is in the process of making the balance payment to respondent No.2, although petitioner has preferred objections Annexures P16 to P20 before the Executing Court, which are pending.

3. Upon instructions, Ms.Deepali Puri, Advocate, who is representing respondent No.1 submits that a conscious decision has been taken not to challenge the order, Annexure P15, passed by the Commercial Court and it has been decided to make the payment of the awarded amount. She submits that respondent No.1 is prepared to deposit the amount before the Executing Court in case it is so ordered.

4. Counsel for respondent No.2 submits that the award is in his favour. He submits that an objection was raised by respondent No.2 before the Arbitrator regarding the status of respondent No.2, which stands rejected by interim order dated 09.10.2019 passed by the Arbitrator. Still further, he has made a reference to the observations made by the Commercial Court while deciding the objections to submit that M/s Welkin India is a sole Proprietorship and not a partnership firm and urges that respondent No.2 is entitled to payment under award. By making a reference to the judgment in **Pradeep Mehra Versus Harjivan**

J. Jethwa (since deceased through LRs) 2023 (4) RCR (Civil) 835 as well as judgment dated 09.01.2024 passed by High Court of Judicature at Allahabad, Lucknow Bench in case titled *Sanjay Agarwal Versus Rahul Agarwal and ors* in *2024 (1) ARC 249* as also judgment titled *State of U.P. and Others Versus Shri Raj Veer Singh, 2024 SCC OnLine All 1094*, he submits that the applications filed by the petitioner before the Executing Court are not maintainable.

5. I have heard counsel for the parties and considered their respective submissions.

6. Whatever may be the position, the fact remains that an award has been passed by an Arbitrator in favour of respondent No.2, who filed an Execution Petition in the year 2021. Some applications have been filed by the petitioner before the Executing Court, which are pending. Part payment of the awarded amount has been made by respondent No.1 to respondent No.2 and respondent No.1 is in the process of making the balance payment. Respondent No.2 is entitled to reap the benefit of the award. Simultaneously, the applications filed by the petitioner have also to be decided.

7. In order to balance the equities between the parties, it is directed that the balance payment to be made under the award by respondent No.1 be deposited with the Executing Court. Upon deposit, the amount be released to respondent No.2 on his furnishing adequate security to the satisfaction of the Executing Court. As applications, Annexures P16 to P20 filed by the petitioner are pending, the Executing Court shall make an endeavour and decide them as expeditiously as possible preferably within a period of six months from the date of

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communication of this order.

8. Needless to mention, the Executing Court shall decide the applications uninfluenced by any observation made in this order.
9. Revision Petition is disposed of.

30.04.2024
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(SUVIR SEHGAL)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No