

**CR-4816-2024****-1-****IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****(122)****CR-4816-2024****DATE OF DECISION:- 28.08.2024****PARMOD KUMAR AGGARWAL****...PETITIONER****VERSUS****SMC GLOBAL SECURITIES LTD.****...RESPONDENT****CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL**

Present:- Mr. Sunny Singla, Advocate and
Ms. Riti Aggarwal, Advocate
for the petitioner.

**********SUVIR SEHGAL, J. (Oral)**

1. This revision petition has been filed under Article 227 of the Constitution of India assailing order dated 13.05.2024, Annexure P-1, passed by the learned Additional District Judge, whereby the objections filed by the petitioner-judgment debtor to the execution petition filed by the respondent-decree holder, have been dismissed.

2. Counsel for the petitioner has contended that the petitioner had invested ₹11,00,000/- in online Crude Oil Platform through the respondent, who acted in violation of the guidelines of SEBI, resulting in a huge loss to the petitioner. He submits that without the knowledge of the petitioner, respondent commenced the arbitral proceedings under the Arbitration and Conciliation Act, 1996 (for short "the Act") by making a unilateral appointment of an Arbitrator, who passed an award dated 17.10.2021, directing the petitioner to pay an amount of ₹33,83,178.42, along with interest. He submits that the respondent filed an execution petition dated

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22.08.2022, Annexure P-2, to which the petitioner submitted reply in the shape of objections dated 15.12.2023, Annexure P-3, but the learned Additional District Judge by order impugned herein, has dismissed the objections. He urges that the Arbitrator was appointed without due notice of the initiation of the arbitral proceedings. He asserts that the petitioner was neither represented, nor appeared before the Arbitral Tribunal. Placing reliance upon the judgment of this Court in **Parsvnath Developers Ltd Versus M/S Wisecan Engineering Pvt. Ltd. and another, 2021 (3) R.C.R. Civil 127**, he contends that it was mandatory for the Arbitrator to deliver a signed copy of the award, which he has failed to do and the provision of Section 31(5) of the Act has been violated. It is also his argument that the objection to the execution, filed by the petitioner, have been rejected without considering them on merits.

3. I have heard the counsel for the petitioner and examined the documents placed on the record with the paper-book.

4. Undisputedly, petitioner has filed objections dated 13.01.2023, Annexure P-5, under Section 34 of the Act, which are pending before the learned Additional District Judge, S.A.S. Nagar, Mohali. He has simultaneously filed objections to the execution petition, Annexure P-2, filed by the respondent-decree holder. These objections have been rejected by the learned Additional District Judge by holding that mere filing of objections under Section 34 of the Act does not *ipso facto* lead to the stay of the execution proceedings and that the objections have been filed to delay the execution proceedings. The arguments, raised by counsel for the petitioner, do not have any force as the objections to the execution petition filed under Section 36 of the Act are not maintainable.



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5. Expounding the law, High Court of Allahabad in **State of U.P. and others Versus Shri Raj Veer Singh, 2024 SCC OnLine Allahabad 1094**, has held as under:-

“29. Therefore, to conclude, it can be said, that objections available under Section 47 of the Civil Procedure Code, 1908 will not be available under Section 36 of the Act since an arbitral award is not in reality a decree of the court but is merely treated as one for the limited purpose of enforcement. The key distinction between court decrees and arbitral awards lies in their origin and nature. Court decrees are orders or judgments issued by a court of law, following adversarial proceedings and adjudication by a judge. They carry the imprimatur of the State and are enforceable as such through the coercive powers of the Court. In contrast, arbitral awards are decisions rendered by private arbitrators chosen by the parties to a dispute, pursuant to an arbitration agreement. They arise from contractual agreements between the parties and are not issued by a court of law. While they may have the same legal effect as court decrees once enforced, they are fundamentally different in origin and nature.

30. Allowing objections under Section 47 of the CPC, 1908 to be raised against arbitral awards would undermine the finality and binding nature of arbitration awards. It would subject arbitral awards to same procedural complexities and delays associated with court proceedings, defeating the purpose of choosing arbitration as an alternative dispute resolution mechanism.

31. Accordingly, this Court holds that the objections which were sought to be raised by the Petitioners under Section 47 of the CPC, 1908 before the Commercial Court, Moradabad were not maintainable and the rejection of the petitioners' objections filed under Section 47 of the CPC, 1908 by the Commercial Court, Moradabad on grounds of maintainability warrants no interference by this Court.”

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6. It is evident from the above judgment, that an arbitral award does not come within the definition of a decree as envisaged under Section 2 (2) of the Code of Civil Procedure, 1908. Once an award passed under the Act attains finality, objections, thereto, can only be taken in proceedings under Section 34 of the Act. The provision being mandatory cannot be bypassed to permit a judgment debtor to raise the objections in execution proceedings initiated for the purposes of the enforcement of the award. Thus, the opposition, raised by the petitioner under Section 47 of the Code of Civil Procedure, 1908, challenging the legality and validity of the award on diverse grounds was not maintainable and the learned Additional District Judge did not commit any illegality by rejecting the same.

7. Petition is devoid of merit and it is hereby dismissed. As the petitioner has already filed objections, Annexure P-5, under Section 34 of the Act, the same shall be determined independently, uninfluenced by any observation made herein.

(SUVIR SEHGAL)
JUDGE

28.08.2024
kamal

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