

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-CARB No.65 of 2019(O&M)
Date of Decision: 01.02.2024

M/S INDIABULLS ASSET RECONSTRUCTION COMPANY LTD.
.....Appellant

Vs

M/S S.V. EXPORTS AND OTHERSRespondents

CORAM: *HON'BLE MR. JUSTICE G.S. SANDHAWALIA*
HON'BLE MS. JUSTICE LAPITA BANERJI

Present: None for the appellant.

Mr. Manish Jain, Advocate
for respondent No.7.

None for the remaining respondents.

G.S.SANDHAWALIA, J.(Oral)

[1]. The present appeal is directed against the order dated 18.11.2019 passed by Additional District Judge, Ludhiana, whereby the application under Section 8 read with Section 5 of the Arbitration and Conciliation Act, 1996 filed by defendant No.1 (appellant herein) was dismissed.

[2]. The reasoning which prevailed with the Commercial Court as such was that only photostat copy of the agreement had been placed on record and the same was deficient in the fixation of stamp duty and the original having not been placed on record and not registered in terms of Section 17(1)(b) of Indian Registration Act. The compliance of provisions

of Section 8(2) of the Act having not been done on the original agreement or the certified copy not being produced, the application was dismissed.

[3]. On 20.03.2023, following order was passed by the Co-ordinate Bench of this Court:-

“Learned counsel for the appellant informs the Court that the debt, which was assigned to the appellant, is no more with it and, therefore, the same has been assigned to some other company. An application for substitution will, therefore, be filed by him within a period of three weeks.

As per the report of Registry, notice issued to respondent No.6 has not been received back served or otherwise.

Let fresh notice be issued to the said respondent for 24.07.2023.”

[4]. Perusal of the aforesaid order would go on to show that necessary requirement of substitution was to be filed within a period of three weeks. A period of 10 months has gone by since then and necessary application has not been filed. It is clear from the above order that the appellant has already assigned the debt to some other agency and has lost interest in the present appeal.

[5]. We are also informed that the suit is still pending consideration and now is fixed for arguments on 22.03.2024 since there was no interim direction for staying the proceedings.

[6]. Keeping in view the above, since defendant No.1 (appellant herein) has already expressed his inability to continue with the present appeal having assigned the debt to another agency, which has not come further to file the appropriate application and in view of the facts and circumstances of the case, we are of the considered opinion that the present

appeal has been rendered infructuous.

[7]. The present appeal is according disposed of having been rendered infructuous. All the connected applications are also disposed of having been rendered infructuous.

(G.S. SANDHAWALIA)
JUDGE

(LAPITA BANERJI)
JUDGE

01.02.2024

Prince

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No