



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

115

CR-3501-2025

Decided On: 15.07.2025

CAPITAL SMALL FINANCE BANK

....PETITIONER(s)

Versus

KASHMIR SINGH BASSI AND OTHERS

....RESPONDENT(s)

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Varun Katyal, Advocate for the petitioner.

TRIBHUVAN DAHIYA J.(Oral)

The petition has been filed for setting aside order dated 04.01.2025, passed by learned Additional District Judge, Ludhiana, dismissing the petitioner/decreed holder's execution application no.893 of 2021.

2. Learned counsel contended that respondent no.1 had taken a loan from the petitioner/Bank vide "*Agreement of hypothecation of standing crops and other movable assets*", dated 27.03.2017. The agreement contained an arbitration clause as well as a panel of arbitrators. The terms of hypothecation agreement were accepted by respondent no.1, and thereafter the loan was extended to him. Disputes arose between the parties, leading to appointment of one of the arbitrator out of the panel by the petitioner. This cannot be termed as unilateral appointment, since respondent no.1 has willingly executed the agreement agreeing to all its terms by affixing his signatures thereupon and it includes the panel as well.

3. The argument raised by learned counsel for the petitioner is misconceived. For appointment of an arbitrator under the Arbitration and



Conciliation Act, 1996, it is an essential requirement that the consent of both the parties is mandatory, and in its absence, the Court has been conferred the jurisdiction to appoint him. In the instant case, however, learned counsel has not been able to place any document on record establishing that after the disputes arose between the parties, the respondent at any stage consented to appointment of an Arbitrator out of the said panel mentioned in the agreement. Merely because the agreement was executed by the respondent, it cannot be said that for any future dispute between the parties his consent for appointment of an Arbitrator would not be required in terms of the 1996 Act. Therefore, no exception can be taken to the impugned order and the petition stands dismissed.

15.07.2025

Ad

Whether speaking/reasoned?

Whether reportable?

(TRIBHUVAN DAHIYA)

JUDGE

Yes/No

Yes/No