



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

210

CR-7949-2019 (O&M)

Date of Decision:25.08.2025

HDB Financial Services Limited

.....Petitioner

Versus

Sanjay and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Nitin Thatai, Advocate for the petitioner.

None for the respondents.

JASGURPREET SINGH PURI J.(Oral)

1. The present revision petition has been filed under Article 227 of the Constitution of India for quashing the impugned order dated 26.08.2019 (Annexure P-6), passed by the learned Additional District Judge, Sonipat, whereby Execution Application No.121/2015, filed by the petitioner-company for enforcement of the arbitral award dated 31.10.2014 passed by the learned Sole Arbitrator against the respondents, has been dismissed against the settled principles of law.

2. The respondents, despite having been duly served, have chosen not to appear before this Court.

3. On 26.04.2024, the following order was passed:-

“As per office note, respondent No.2 has been served and respondent No.1 is reported to have been served



through his brother. However, there is no representation on their behalf.

In the interest of justice, adjourned to 08.08.2024.”

4. Today also nobody has appeared on behalf of the respondents.
5. Learned counsel appearing on behalf of the petitioner, while giving brief facts of the present case, submitted that the petitioner is a finance company that had financed respondents No.1 and 2 jointly for the purchase of a commercial vehicle. Thereafter, the respondents committed default in payment of installments and ultimately the vehicle was surrendered by them to the petitioner-company, whereupon the vehicle was sold in open auction. Subsequently, the vehicle was purchased by a buyer for valuable consideration and the proceeds from the sale were credited to the petitioner-finance company's account. However, even after the aforesaid transaction was made, some amount was still outstanding regarding which arbitration proceedings were initiated. The amount of sale proceeds were credited to the account of petitioner-company in the year 2013 and thereafter when the arbitration proceedings were initiated by the petitioner-company, the respondents did not choose to appear before the learned Arbitrator and consequently an *ex parte* arbitration award dated 31.10.2014 was passed vide Annexure P-3. While referring to the aforesaid arbitration award, learned counsel for the petitioner submitted that after appropriating the sale proceeds against the outstanding dues, it was decided by the learned Arbitrator that a further sum of Rs.2,44,260/- along with interest and other charges still remained outstanding. Thus, as per the



arbitration award, even after crediting the sale proceeds from the sale of vehicle to the petitioner's account, the aforesaid amount still remained outstanding. Thereupon, the petitioner-company filed execution proceedings before the learned Additional District Judge, Sonipat. Although the respondents-judgment debtors appeared before the learned Additional District Judge but they did not file their written replies. However, based on their oral submissions alone, the execution application was dismissed on 26.08.2019 vide Annexure P-6.

6. Learned counsel for the petitioner further submitted that a perusal of the aforesaid order would show that the respondents-JDs had taken the plea that the petitioner-company had already waived off the entire amount which was outstanding at the time when the NOC was issued to the subsequent purchaser. He also submitted that the aforesaid submission made by the judgment debtors before the Executing Court was a total misrepresentation of the facts in view of the fact that the aforesaid NOC was issued only for the purpose of transferring the name to the subsequent purchaser, otherwise the same could not have been done and the amount in the account statement of the petitioner's company remained outstanding to the extent of Rs.2,04,022/-, which was duly reflected in its account books but the same was not even considered by the Executing Court.

7. Learned counsel also submitted that be that as it may, once an award has been passed in which the aforesaid issue with regard to the sale proceeds was considered and after considering the appropriation of the sale proceeds, the award was passed which has attained finality, the learned Executing Court could not have gone beyond the aforesaid award on the



basis of the aforesaid submissions made by the judgment debtors pertaining to those events which took place prior to the passing of the award especially when all the events had been considered by the arbitral tribunal. He submitted that in view of the above, the impugned order is liable to be set aside.

8. I have heard the learned counsel for the petitioner.

9. A perusal of the award Annexure P-3 would show that after appropriating the sale proceeds against the outstanding dues a further sum of Rs.2,44,260/- remained outstanding. The relevant portion of Annexure P-3 is reproduced as under:-

“After appropriating the sale proceeds against the outstanding dues, a further sum of Rs.244260/- remained outstanding as shown in the Statement of Account Ex-10. This amount includes LPP charges, interest, Foreclosure Charges, Pending Installments, Repossession Charges, etc. as per the terms of the agreement. The claimant-company has proved by evidence that it is entitled to recover an amount of Rs.244260/- from respondents jointly and severally and there is no reason before me not to accept this evidence of the claimant company. The claimant company is accordingly entitled to recover this amount from the respondents. On the said outstanding amount the claimant interest at the rate of 24% P.A. but looking to the business customs & agreement executed between the parties. I am of the view to allow interest at the rate of 18% P.A.”

10. Thereafter, in the concluding part of the award, the claim was allowed for the aforesaid amount i.e. Rs.2,44,260/- along with interest and some other charges. When the petitioner filed the execution application, the respondents-JDs appeared, although they were proceeded *ex parte* before the learned Arbitrator and before the learned Executing Court, the respondents appeared but did not file any reply.



11. Learned Executing Court merely on the basis of the fact that the petitioner had issued an NOC to the subsequent purchaser for the purpose of getting the name transferred, dismissed the execution application vide impugned order dated 26.08.2019 (Annexure P-6).

12. This Court is of the considered view that once the aforesaid issue with regard to sale of the vehicle to the subsequent purchaser by way of auction proceedings had occurred prior to the passing of the award and the sale proceeds had already been considered and set off at the time of passing the award itself, there was no subsequent event or any transaction between the parties to show that the award had been satisfied. It is a settled law that once an award is passed by the Arbitrator, the executing Court cannot go beyond the award itself. The submissions made by the judgment debtors before the learned Executing Court were already available with the learned Arbitrator because all those events were prior to the passing of the award. Therefore, there was no occasion for the learned Executing Court to have considered the aforesaid submissions made by the judgment debtors. Had it been a case where some payment or subsequent event had taken place after the passing of the award for payment of money then the situation would have been different. However, in the present case, the award had already been passed and had attained finality and therefore the learned Executing Court could not have gone beyond the aforesaid award.

13. In view of the aforesaid facts and circumstances, the present petition is allowed. The impugned order dated 26.08.2019 (Annexure P-6) is hereby set aside. Consequently, the execution proceedings before the learned Executing Court shall stand revived and the learned Executing



Court is directed to proceed further with the said proceedings in accordance with law.

14. The petitioner shall now appear before the learned Executing Court on 19.09.2025.

(JASGURPREET SINGH PURI)
JUDGE

25.08.2025

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No