

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Civil Revision No.3758 of 2008
Date of decision: September 30, 2008

Rajiv Arora

.....PETITIONER

Versus

Meena Dawar and another

.....RESPONDENTS

CORAM: HON'BLE MR JUSTICE T.P.S.MANN

PRESENT:Mr Ashu Kaushik, Advocate

Mr Puneet Jindal, Advocate

T.P.S.MANN, J. (Oral):

The petitioner was married to Preeti Arora on 29.11.2002. From this wedlock, two daughters, namely, Kashish Arora and Gayatri Arora were born. Wife of the petitioner died on 22.8.2007. Thereafter, his two daughters are being looked after by the respondents, who are their maternal grandmother and maternal uncle, respectively.

The petitioner filed Criminal Writ Petition No.1103 of 2007 so as to seek the release of his two daughters from the custody of the respondents. This petition came up for hearing on 4.12.2007, when after arguing for some time, learned counsel for the petitioner wanted to withdraw the same, with liberty to

pursue the remedy before the Guardian Court. The petition was, accordingly, dismissed as withdrawn with liberty aforementioned.

The petitioner had also obtained search warrant under Section 97 Cr.P.C from the Court of learned Sub Divisional Magistrate, Amritsar on 26.10.2007 on the basis of an application submitted by him, which was duly recommended by Station House Officer, Police Lines, Amritsar. Search warrant as well as the recommendation of Station House Officer, Police Civil Lines, Amritsar in respect of issuance of search warrant were challenged by the respondents and another by filing Crl. Misc. No.50496-M of 2007. The said petition came up for hearing on 4.9.2008 when learned counsel appearing for respondent No.7 therein (present petitioner) stated at the bar that he had no objection in setting aside of the aforementioned recommendation of the Station House Officer and orders, which stood attached as Annexures P-8 and P-9. In view of the statement made by learned counsel for respondent No.7 therein, both Annexures P-8 and P-9 were quashed.

The present revision has been filed by the petitioner so as to stall proceedings before learned District Judge,

Amritsar, before whom petition under Section 9 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as “the Act”) has been filed by the respondents for issuance of directions to the petitioner to hand-over the entire dowry articles of deceased Preeti Arora, besides paying/depositing a sum of Rs. five lakhs each in the names of two minor children. While filing such a petition under Section 9 of the Act, the respondents relied upon agreement Annexure P-2, which was arrived at between the petitioner and the respondents on 23.8.2007 at 9.00 AM at Amritsar in the presence of respectables. It was agreed to between the parties that the two minor daughters of the petitioner and Preeti Arora would be brought up by the respondents and the petitioner would have no objection in that regard. Further that the petitioner would get prepared two FDRs in the sum of Rs.five lakhs each in the names of two daughters, besides returning Stridhan of Preeti Arora, consisting of Santro car, jewellery, wedding lehnga, chunni etc. The aforementioned compromise deed was given the nomenclature of arbitration/panchnama award and duly signed by the President and Secretary of Joshi Colony (E) Welfare Society, Amritsar and others, besides the petitioner and the respondents.

Learned counsel for the respondents has submitted that before the aforementioned compromise was arrived at between the parties, all of them submitted in writing to the President, Joshi Colony (E) Welfare Society, Amritsar, requesting him to act as Arbitrator between the parties in the matter pertaining to maintenance of the two children, besides returning of Stridhan. Copy of the said request has not been placed on record by learned counsel for the petitioner for the reasons best known to him. On the other hand, he specifically made an averment in para- 6 of the petition that no such request had been made for the appointment of Arbitrator so as to resolve the dispute between the parties. His only plea is that his signatures were obtained on blank papers at the time when people had gathered for attending cremation of his wife, which were later-on converted into a compromise between the parties.

It is an unfortunate case where after having submitted to the jurisdiction of the President of Joshi Colony (E) Welfare Society, Amritsar so as to act as sole Arbitrator in resolving the matter between the parties and later-on an award was duly passed by the said Arbitrator, which was signed by the petitioner as well as his father, the petitioner is now running away from the same. At one stage, he has taken the plea that the people had

gathered for cremation of his wife and therefore, he was not in his senses as to what was going on around him, at the same time, he admits that his signatures were obtained on some blank papers. Realizing that the petitioner could not have been able to wriggle himself out of the signatures appended to the request made for arbitration, as well as on the arbitration/panchnama award, it appears that he has come up with an explanation that he was made to sign certain papers.

The plea that no Arbitrator was ever appointed and the signatures of the petitioners obtained on some blank papers have been later-on converted into a compromise stands falsified from the written request submitted by the petitioner, along with his father, on the one hand and both the respondents on the other, to Mr Jugal Kishor, President, Joshi Colony (E) Welfare Society, Amritsar, requesting him to act as sole Arbitrator in all the matters pertaining to maintenance of the two minor daughters and their guardianship and return of Stridhan to the parents of the deceased. He cannot now complain that the respondents were not entitled to file a petition under Section 9 of the Act for issuance of interim orders/directions to him to hand-over the entire articles of deceased Preeti Arora, besides paying/depositing a sum of Rs. Five lakhs each in the names of

two minor children. Once the parties had agreed in that direction before the sole Arbitrator, who had pronounced his award accordingly, the petitioner cannot wriggle out of his liability under the same.

The petitioner has already withdrawn his petition from this Court on 4.12.2007, wherein he had sought release of his two daughters from the custody of the respondents. While doing so, he was given liberty to pursue the remedy before the Guardian Court.

In view of the above, there is no merit in the present revision, which is, accordingly, dismissed.

However, anything observed above, shall not be construed as an expression on the merits of the petition under Section 9 of the Act and also any other petition filed/to be filed by the petitioner, including the petition under Section 25 of the Guardian and Wards Act.

September 30, 2008
Pds.

(T.P.S.MANN)
JUDGE