

**IN THE COURT OF Sh.KULJIT PAL SINGH,
ADDL. DISTRICT JUDGE, JALANDHAR(UID No.PB0125).**

CIS Case No.615/2016
CNR No.PBJL010063712016
Date of Instt:17.5.2016
Date of decision:15.2.2017

M/S. PKF Finance Ltd. Balbir Tower, PKF Namdev Chowk, G.T.Road,
Jalandhar, through Sh.Kulwant Singh, Section Officer(Legal Deptt.) &
authorised representative/Principal Officer.

.....Applicant

VERSUS

1. M/s. Aasra Foundations(Regd.) through its President Sh.Zora Singh s/o Sh.Lal Singh, SCO:181/182,Top Floor, Sector 8C Chandigarh.

....Borrower/respondent

2. The Revenue Officer,Tehsil Amloh,Distt.Fatehgarh Sahib.

.....Proforma Respondent

Application under section 9 of the Arb. and Conc. for restraining the following respondents from selling off their share of land as detailed in the fard jamabandi before the enfocement of the award-

Share of land of M/s.Aasra Foundations (Regd.) situated at Vill. Saunti, Tehsil Amloh,Distt. Fatehgarh Sahib comprising to khasra No.658, 659, 1745/13, 16/655, 1815/12, 09/156,159,160, 161 as per Fard Jamabandi enclosed for the year 2006-07.

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Present: Sh. Umesh Dhingra, Advocate, Counsel for the petitioner.
Respondent No.1 exparte
Respondent No.2 proforma respondent.

ORDER

1. The petitioner company filed the present petition against the respondents under section 9 of the Arbitration and Conciliation Act, 1996

through its duly authorized representative, on the facts that M/s. Aasra Foundations (Regd.) through its President Zora Singh approached for advance of loan for the purchase of Generators, Air Conditioners, Stabilizers, Computers and Computer Accessories, Projectors, Servers, Water Coolers, Lab and Hospital Equipments etc. and entered into an agreement dated 24.12.2012 with the applicant company. After admitting the contents of loan agreement to be correct, M/s. Aasra Foundations (Regd.) through its President Zora Singh signed the loan agreement as borrower whereas Tajinder Kaur wife of Zora Singh stood as guarantor and signed the loan agreement. It has been averred that respondents failed to pay the due instalments despite repeated demands and visits of the staff of the applicant company. A sum of Rs.42,11,992/- as on 17.2.2016 has become due to the applicant from the respondents, which includes overdue instalments, overdue charges etc., alongwith future compensation @ 3% till realization. A registered legal notice for proposing the name of appointed Arbitrator and further demand of due amount was sent to the respondents on 31.3.2016, which has no effect. As such, the dispute shall be referred to the nominated arbitrator after mandatory period of sending the notice. The applicant has come to know that respondent No.1 is intending to sell off his share of land comprising khasra Nos., as mentioned in the head note. Since the borrower and other guarantors have no other property in their name and in case respondent No.1 succeeds in his evil design of selling the landed property, then the applicant company shall suffer an irreparable loss, which cannot be compensated in terms of money. Hence, the applicant prayed for

restraining respondent No.1 from alienating/selling of his property before the award is enforced under the Code of Civil Procedure, 1908, in the same manner as if it were a decree of the court as per Section 36 of the Arbitration and Conciliation Act,1996.

2. Notice of the petition was given to the respondents. The respondent No.1 failed to turn up in the court despite service and was proceeded against exparte. Respondent No.2 is proforma respondent.

3 I have heard learned counsel for the petitioner and perused the file, minutely.

4. The averments made in the petition are fully supported by an affidavit sworn by duly authorised representative of the company. Copy of the agreement entered into between parties,reflecting arbitration clause is also placed on record. Besides,copies of other relevant documents, including the copy of statement of account of the respondents showing default committed in payment of loan installments as agreed between parties,have also been brought on record. All these submissions and pleas of petitioner company are unopposed and unchallenged, as respondents have not turned up despite their service and are exparte. So,keeping in view the facts and circumstances that default has been committed by the respondents,the present petition is allowed exparte, with costs whereby respondent No.1 is restrained from alienating their share in the land mentioned in the application till payment of the amount found due against the respondents by the Arbitrator in respect of the loan in question.

Memo of costs be prepared.

File be consigned to the Record Room.

Announced:
15.2.2017

(Kuljit Pal Singh),
Addl. District Judge,
Jalandhar(UID No.PB0125)

*Sital Singh**