

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.6058 of 2014 (O&M)

Date of decision: January 08, 2015.

M/s Shree Ram Rice & General Mills & Others

... **Petitioners**

v.

Punjab State Warehousing Corporation

... **Respondent**

CORAM: **HON'BLE MR. JUSTICE DR. BHARAT BHUSHAN PARSOON**

Present: Shri Ritesh Pandey, Advocate, for the petitioners.

Dr. Bharat Bhushan Parsoon, J. (Oral):

Application of the petitioner-defendants, appellants in the court below, for prosecuting their civil appeal as indigent persons in terms of Order XLIV Rule 1 CPC, was dismissed vide impugned order of 20.8.2014.

A civil suit by Punjab State Warehousing Corporation, Chandigarh was preferred against the defendants, now petitioners, i.e., M/s Shri Ram Rice and General Mills, Gurdaspur and two of its partners on 15.6.2005 for recovery of Rs.1,10,14,580/- along with interest @ 18% per annum, wherein counter claim was also preferred by the defendants, petitioners herein. Vide judgment dated 11.1.2013, suit of the plaintiff was decreed with costs for recovery of the said amount with interest @ 9% from the date of filing of the suit. The counter claim of the defendants, petitioners herein, was also allowed only to the extent of recovery of Rs.1,50,000/- of security amount against the plaintiff Corporation, respondent herein.

First appeal has been preferred by the defendants before the District Judge, Gurdaspur where exemption in payment of court fee has been sought, seeking leave of the court to institute the appeal as an indigent

person. The appellate court gave full opportunity to the applicant-petitioners to produce their evidence to prove their indigence, wherein they produced their oral as well as documentary evidence. It was found that the applicant-petitioners had huge landed property, structure and machinery and they were running two firms viz. Shri Ram Rice & General Mills as also M/s Baba Nanak Rice Mills. It was found that the partners were having moveable assets valuing crores of rupees with them. After assessing the documentary as well as oral evidence and discussing each and every aspect in its relevant details, the trial court has rightly come to the conclusion that the applicant-petitioners are not indigent persons and, rather they possess sufficient funds to affix the required court fee on the appeal which they have preferred before the appellate court.

In view of the opportunity given to the applicant-petitioners to prove their indigence, no separate enquiry under Order XLIV Rule 3 is required.

Counsel for the petitioners has not been able to point out any infirmity, either on facts or in law, in the impugned order, whereby application of the defendants, claiming themselves to be indigent persons, has been dismissed.

No merit.

Dismissed.

[Dr. Bharat Bhushan Parsoon]
Judge

January 08, 2015.
kadyan