

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

**1. FAO No.1437 of 2009 (O&M)
Date of Decision: March 24, 2015**

Punjab State Civil Supplies Corporation Ltd. Appellant

VS.

M/s Jagdamba Rice Mills and others Respondents

**2. FAO No.1438 of 2009 (O&M)
Date of Decision: March 24, 2015**

Punjab State Civil Supplies Corporation Ltd. Appellant

VS.

M/s Jagdamba Rice Mills and others Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Deepak Sabharwal, Advocate for the appellant.

Mr. H.S. Saggi, Advocate for respondent Nos.1 and 2.

1. Whether Reporters of Local Newspapers may be allowed to see the judgment?

2. To be referred to the Reporters or not?

3. *Whether the judgment should be reported in the Digest?*

Kuldip Singh J.(Oral)

This order will dispose of FAO Nos.1437 and 1438 of 2009.

In this case, the dispute between the parties was regarding the short supply of paddy. The Arbitrator, vide order dated 07.06.2003 awarded ₹2,47,50,485/- (Rupees two crores forty seven lacs fifty thousand four hundred eighty five only) in favour of PUNSUP.

The miller challenged the said Award before the learned Addl. District Judge, Chandigarh. The learned Addl. District Judge, Chandigarh, vide order dated 06.11.2008 after considering the agreement and the case law on the point held that the dispute is covered within the 'excepted matters', clause of the agreement which ought to be decided by the Managing Director of the respondent-Corporation. Therefore, it was directed that the Managing Director shall be competent to decide the matter afresh and the time spent in these proceedings shall be excluded for the purpose of limitation. The record was ordered to be sent to the Managing Director of respondent-Corporation.

Respondent-Corporation dissatisfied with the order dated 06.11.2008 passed by learned Addl. District Judge, Chandigarh, has filed the present appeal.

I have heard learned counsel for the parties and have also carefully gone through the case file.

The only dispute raised before the Arbitrator was regarding the short delivery of the rice. The matter is squarely covered within the 'excepted matters' as provided in the agreement and under Clause 8 for which the recovery is to be made as per price of the rice fixed by the Food Corporation of India plus interest at the rate of 21% from the date it becomes payable till the date of actual realization equivalent to the short fall.

Learned counsel for the appellant has relied upon the judgment passed by this Court vide order dated 17.07.2012 in FAO No.1186 of 2010 titled as ***“M/s. Adarsh Rice Mills vs. Punjab State Civil Supplies Corporation & another”***.

A perusal of the said judgment shows that in the said case, the interest at bank rate was claimed, which was not covered within the conditions of the arbitration agreement.

However, in the present case, only claim was regarding short supply of the rice with interest @ 21% per annum, which is covered within the 'excepted matters' provided in the agreement.

It being so, no fault can be found with the order dated 06.11.2008 passed by the learned Addl. District Judge, Chandigarh.

It is disheartening to note that the Manager (Legal/Arbitration) of PUNSUP in place of approaching the Managing Director of his department, in terms of the order of learned Addl. District Judge, Chandigarh, decided to approach this Court by way of filing the present appeal. The matter remained pending before this Court from 2009 till date. There was absolutely no ground to approach this Court.

Consequently, both the appeals are dismissed with a further direction that no interest shall be payable by the miller for the period during which the appeal remained pending before this Court and further till the date proceedings are initiated by the Managing

Director of the appellant-Corporation. However, it is further directed that the period consumed in the appeal before this Court shall be excluded for the purpose of limitation. Needless to say that the directions issued by the learned Addl. District Judge, Chandigarh shall be complied with in letter and spirit.

March 24, 2015
sarita

(KULDIP SINGH)
JUDGE