

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

F.A.O.No.3947 of 2009 (O&M)
Date of Decision: August 24, 2015

The Punjab State Cooperative Supply and Marketing Federation Limited
(Markfed) Sangrur

...Appellant

Versus

M/s Ambey Rice Mills, Sangrur & another

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

1. Whether Reporters of local papers 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?

Present: Ms.Deepali Puri, Advocate,
for the appellant.

Mr.L.S.Sidhu, Advocate,
for respondent No.1.

AMIT RAWAL, J. (Oral)

The challenge in the present appeal is to the order dated 6.4.2009, whereby the award dated 16.5.2007 rendered by the arbitrator, has been set-aside.

Ms.Deepali Puri, learned counsel appearing on behalf of the appellant submits that the appellant had initially submitted a claim of ₹34,95,547/-. The matter was decided by the arbitrator, but, however, in the appeal the same was remitted back to the arbitrator and thereafter a revised claim of ₹8,58,655/- was filed after deleting one and half time economic cost and 21% and 30% interest, which, as per the terms and conditions of the agreement did not fall within the excepted clause. In essence, the matter

was purely as per the terms and conditions of the agreement and did not fall within the excepted clause. The arbitrator awarded the amount of compensation of ₹5,92,821/- along with interest @ 15% per annum, however, the Additional District Judge, while entertaining the objections, had taken into consideration the claim of bags, which was submitted in revised claim and, moreover, found that the Markfed had claimed one and half time economic cost, which was not within the domain of the arbitrator and, therefore, the impugned order suffers from illegality and perversity.

Mr.L.S.Sidhu, learned counsel appearing on behalf of the miller submits that the impugned order is sustainable as there is no illegality and perversity in the same and the objections were filed in consonance with the parameters laid down in Section 34 of the Arbitration and Conciliation Act, 1996 (for short “1996 Act”) and rightly so, the same have been allowed. He further submits that the Additional District Judge has found that amount of ₹5,92,821/- was basically on account of one and half time of economic cost, which fell within the excepted clause and, therefore, the arbitrator could not adjudicate the same as he did not have the jurisdiction.

I have heard the learned counsel for the parties and appraised the paper book.

Noticing the aforementioned rival contentions of the representative of the parties to the lis, the fact remains that the revised claim had actually been filed by reducing the claim from ₹34,95,547/- to ₹8,58,655/- and after excluding one and half time economic cost and as well as 21% and 30% interest, which was falling within the excepted clause and the jurisdiction to grant the aforementioned claim was within the domain of

the Managing Director, the objector court, in my view, has not taken into consideration the facts and found that amount of ₹5,92,821/- was basically on account of one and half time of economic cost, which is not the position on record. The scope of interference under Section 34 of the 1996 Act is limited in view of the laid down by the Hon'ble Supreme Court in catena of judgments.

The Additional District Judge has erroneously found that a sum of ₹5,92,821/- plus 15% interest fell within the excepted clause and, therefore, the arbitrator did not have the jurisdiction, whereas in the revised claim, the Markfed had not claimed one and half economic time cost and 21% and 30% interest, which fact is evident from the statement of claims culled out in the award of the arbitrator.

Keeping in view of the aforementioned facts, I deem it appropriate to remand the matter back to the Additional District Judge to decide the objections by noticing the aforementioned facts.

Accordingly, the impugned order is set-aside. The appeal is allowed. The matter is remitted back to the Additional District Judge, who shall decide the objections which are restored to its original number afresh within a period of three months from the date of receipt of certified copy of the order.

The parties, through their counsel, are directed to appear before the concerned court or successor court on 21.9.2015.

August 24, 2015
ramesh

(AMIT RAWAL)
JUDGE