

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

FAO No.913 of 2009 (O&M)

Date of decision : 17.11.2015

M/s B.C.C. Rice Mills & Exports Pvt. Ltd. & ors.

...Appellants

Versus

Punjab State Warehousing Corporation and ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

1. Whether reporters of local newspapers may be allowed to see judgment ?
2. To be referred to reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present: Mr. Sushil Saini, Advocate for the appellants.

Mr. I.S. Sidhu, Advocate for respondent Nos.1 and 2 (PSWC).

AMIT RAWAL, J. (Oral)

Challenge in the present appeal is to the order dated 06.05.2008, whereby objection petition filed u/s 34 of the Arbitration and Conciliation Act, 1996 for setting aside of the award dated 21.07.2005, whereby Sole Arbitrator had been appointed vide order dated 18.09.2003/22.09.2003, has been dismissed.

Mr. Sushil Saini, learned counsel appearing on behalf of appellants submits, that Arbitrator has exceeded its jurisdiction in awarding the interest at the rate of 21% for the first year and 30% for the subsequent

year which as per the terms and conditions of the agreement fall within the Excepted Clause. In support of his contention, he has relied upon judgment of this Court in *M/s Shree Krishna Rice Mills Vs. The Punjab State Co-op. Supply & Marketing Federation Ltd. 2003(3) RCR (Civil) 254*, and thus prays that both the Objecting Court and Arbitrator has committed illegality and perversity in dismissing the objection petition and awarding of interest at the rate of 21% and 30%.

Mr. I.S. Sidhu, learned counsel appearing on behalf of respondent Nos.1 and 2 submits, that though the claim petition was with regard to the driage, shortage of supply of money, sales tax etc. yet the Arbitrator has awarded interest at the rate of 21% and 30%. Since this objection has not been taken by the Miller before the Arbitrator, therefore, had waived the right.

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

This Court in *M/s Shree Krishna Rice Mills Vs. The Punjab State Co-op. Supply & Marketing Federation Ltd. 2003(3) RCR (Civil) 254*, has already been held that in case the Arbitrator grants the interest as per the terms and conditions of the agreement at the rate of 21% and 30% which falls within the Excepted Clause, the Arbitrator shall not have the jurisdiction to decide the case, much less, entertain the claim. Since the Punjab State Warehousing Corporation Ltd. claimed the interest at the rate of 21% and 30% which as per the terms and conditions of the contract falls within the Excepted Clause, the Arbitrator should have refrained from the proceedings with the adjudication of the dispute.

Such objections were also taken by the appellant before the Objecting Court but the Objecting Court has not assigned any reasons, much less, cogent reasons.

Accordingly, the award and as well as impugned order are hereby set aside.

Parties shall be at liberty to seek the adjudication of the lis before the competent authority in accordance with law.

Appeal stands allowed.

17.11.2015

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**(AMIT RAWAL)
JUDGE**