

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.2200 of 2010 (O&M) &
Cross-objection No.34-CII of 2011
Date of Decision: August 24, 2015

M/s Abrol Rice and General Mills, Qadian, District Gurdaspur

...Appellant

Versus

Punjab State Civil Supplies Corporation Limited, Sector 34-A, Chandigarh
& others

...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: Mr.Sushil Saini, Advocate,
for the appellant.

Ms.Deepali Puri, Advocate,
for the respondents.

AMIT RAWAL, J. (Oral)

By this order, I intend to dispose of FAO No.2200 of 2010 and
Cross-objection No.34-CII of 2011.

FAO has been filed on behalf of the appellant-miller for the
reason that the counter-claim filed before the arbitrator was not entertained,
whereas the cross-objections have been filed on behalf of the PUNSUP on
the ground that vide impugned order dated 15.10.2009, award dated
11.11.2003 was set-aside on the premise that the claim, much less, revised

claim was falling within the excepted clause.

Mr.Sushil Saini, learned counsel appearing on behalf of the appellant-miller submits that the counter claim of ₹2,75,000/- was filed before the arbitrator, but the arbitrator while rendering the findings has not considered the claim, however, awarded compensation of ₹39,69,493/- to the PUNSUP. The said award was objected to by filing objections under Section 34 of the Arbitration and Conciliation Act, 1996 and the District Judge has allowed the objections, but again has not set-aside the award, vis-a-vis, the counter claim of ₹2,75,000/-, though it has been observed that there is no specific reference to the same in the award.

Ms.Deepali Puri, learned counsel appearing on behalf of the PUNSUP submits that a revised claim was filed before the arbitrator excluding the element of one and a half time economic cost and 21% and 30% interest, which did not fall within the realm of excepted clause and the arbitrator on going through the evidence, awarded a compensation of ₹39,69,493/- along with interest. The District Judge has committed an illegality and perversity in accepting the objections on the premise that the claim/revised claim fell within the excepted clause and, therefore, arbitrator did not have the jurisdiction.

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

It is a matter of record that in the revised claim, as noticed in accepting the award, PUNSUP has not claimed one and a half time economic cost plus 21% and 30% interest as per clause 6 (iii) of the terms

and conditions of the agreement, which power, as such to grant compensation is within the domain/realm of the Managing Director. The District Judge, in my view, has committed an illegality and perversity in misreading the claim of the PUNSUP and rightly so the cross-objections have been filed. The counter-claim of ₹2,75,000/- was not discussed by the arbitrator, but the District Judge found that no reference to the same in the award tantamounts to rejecting the same. I am not in agreement with such observation too. The District Judge was required to ponder upon the specific objections with regard to the counter claim raised by the miller by referring to the record of the arbitrator.

In view of what has been observed above, the order dated 15.10.2009 is hereby set-aside and the matter is remitted back to the District Judge/successor Court to decide the objections afresh keeping in view the aforementioned observations.

Both the appeal and the cross-objections are allowed.

It is expected that the District Judge/Successor Court shall decide the matter within a period of four months from the date of receipt of certified copy of this order.

The parties, through their counsel, are directed to appear before the District Judge on 21.9.2015.

August 24, 2015
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(AMIT RAWAL)
JUDGE