

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

FAO No. 3156 of 2010
Date of decision : August 10, 2015

Punjab State Civil Supplies Corporation Limited and another
..... Appellants
Versus

M/s Saluja Rice Mills and others
..... Respondents
FAO No. 5798 of 2009

Punjab State Civil Supplies Corporation Limited
..... Appellant
Versus

M/s Hindustan Rice Mills, Rampura Phool District Bathinda and others
..... Respondent
FAO No. 3753 of 2010

Punjab State Civil Supplies Corporation Limited and another
..... Appellant
Versus

M/s Kanda Rice Mills Pvt. Ltd. Jalandhar and another
..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Arnav Kumar Sood, Advocate for
Mr. S. S. Brar, Advocate
for the appellant in FAO No. 3156 of 2010

Mr. Karan Gupta, Advocate for
Mr. Rakesh Gupta, Advocate in FAO No.3753
of 2010.

Mr. Deepak Sabherwal, Advocate for
the appellant in FAO No. 5798 of 2009.

Mr. P. S. Rana, Advocate

for respondent Nos. 1 to 5 and 7 in FAO No. 5798 of 2009.

Mr. S. K. Singla, Advocate
for respondent Nos. 1 and 2 FAO No. 3156 of 2010.

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?

Amit Rawal, J (oral).

CM No. 15275-CI of 2010 and other C.Ms for condonation of delay in connected cases

These are applications under Section 5 of Limitation Act seeking condonation of delay in filing the appeals.

For the reasons stated in the applications, which are duly supported by an affidavit, delay in filing the appeals is condoned.

The application stands disposed of.

CM No. 16229-CII of 2010 in FAO No. 3753 of 2010

This is an application under Section 151 CPC seeking condonation of delay in refiling the appeal.

For the reasons stated in the application, which is duly supported by an affidavit, delay of 9 days in refiling the appeal is condoned.

The application stands disposed of.

CM No. 4016-CII of 2013 in FAO No. 3156 of 2010

This is an application under Order 22 Rule 4 CPC for bringing on record the legal representatives of Avinash Chander

who is stated to have died. The legal representatives of the respondent-Avinash Chander are permitted to be brought on record.

Amended Memo of Parties has already been annexed, the same is taken on record.

Registry is directed to make necessary correction in the Memo of Parties and place it at an appropriate place.

The application is disposed of.

FAO Nos. 3156 of 2010, 5798 of 2009 and 3753 of 2010

By this order I intend to dispose of three appeal bearing FAO Nos.3156 of 2010, 5798 of 2009 and 3753 of 2010 as common question of fact and law involve in all the appeals.

The Punjab State Civil Supplies Corporation Limited (hereinafter called as 'PUNSUP') has knocked the door of this Court by filing appeal under Section 37 of the Arbitration and Conciliation Act, 1996 (hereinafter called as 'the Act') on the premise that the objections against the awards have erroneously and perversely been rejected by the Principal Court. It has been submitted that Arbitrator did not assign any reason in partly granting the relief and declining rest of the claim.

Learned counsel for the appellant submits that the learned District Judge has not appreciated that the Miller had committed exceptional delay in delivering the rice and therefore the miller was required to make the payment of interest, thus the demand at the behest of PUNSUP claiming interest was justified. The Arbitrator has failed in his jurisdiction in not granting other reliefs as sought in the claim petition.

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

It is now a settled law that in what circumstances the award has to be interfered with. The question which is now raised in the aforementioned appeal has already been answered by the Hon'ble Supreme Court in catena of judgments wherein it has been laid down that until and unless the award suffers from illegality as statutorily prescribed under Section 34 of the Act, the same cannot be interfered with. In this context I intend to refer the judgments of Hon'ble Supreme Court in **Associate Builders Vs. Delhi Development Authority (2015) 3 SCC 49** and **Navodaya Mass Entertainment Ltd. Vs. J. M. Combines (2015) 5 SCC 698**.

In the aforementioned judgment the Hon'ble Supreme Court had culled out the ratio decidendi by holding that until and unless there is error apparent on the face of record or the arbitrator has not followed statutory legal position, it is only in these circumstances it would be justified interfering with the award. The High Court should not act as a Court of appeal and reappraise the material/evidence and embarked on a path by substituting its own view in support of the Arbitrator's view. It is not the case of the appellant that the award is against the public policy or has violated the principles of judicial approach, much less against the statute and other provisions of Section 34 of the Act. The Arbitrator has dealt with the dispute which was contemplated and was within its scope. The parties to the *lis* had participated in the proceedings and were given proper notice not only with regard to the appointment of the Arbitrator but viz-a-viz

proceedings, in my view the award of the Arbitrator does not suffer from any illegality in as much as the Arbitrator who is expert has dealt with the matter and decided the claim of respective claimants to the parties to the *lis*.

In my view, the award read as a whole is just, fair and reasonable and only certain claims have been granted and all the claims granted have been supported with reasons. It is now a settled law that the Arbitrator is the sole judge of quality and quantity of the evidence before him and decide on the basis of the available evidence.

In my view, no error of law arise from the award. The award is perfect and justified and all the objections filed against the same were wholly misconceived.

There is no merit in the aforementioned appeals. The appeals are accordingly dismissed.

**(AMIT RAWAL)
JUDGE**

**August 10, 2015
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