

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

FAO No.4120 of 2011 (O&M)

Date of decision : 11.12.2015

Punjab Agro Foodgrains Corporation Ltd. and another

...Appellants

Versus

M/s Vikas Rice Mill, Jalalabad and another

...Respondent

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. B.R. Bansal, Advocate for appellants.

Mr. Atul Goel, Advocate for
Mr. Parvez Chugh, Advocate for the respondent.

AMIT RAWAL, J. (Oral)

The appellant-Corporation is aggrieved of the order dated 29.07.2010, whereby objections filed under Section 34 of the 1996 Act at the behest of the respondent-Miller seeking setting aside of the award dated 01.09.2006 passed by the Arbitrator, has been allowed.

Mr. B.R. Bansal, learned counsel appearing on behalf of appellant submits, that entire thrust of the Objecting Court is to the objections that matter was not referable to the arbitration as the dispute between the parties to the lis fall within the Excepted Clause. He further

submits that no such plea had been taken by the Miller in the written statement nor during the course of the arguments and, therefore, the said right is deemed to have been waived as per provision of Section 4 of 1996 Act. In support of contention, he has relied upon judgment rendered by this Court in *M/s Adarsh Rice Mills Vs. Punjab State Civil Supplies Corporation and another, 2013(5) RCR (Civil) 51*.

Mr. Atul Goel, Advocate for Mr. Parvez Chugh, learned counsel appearing on behalf of respondent-Miller submits, that there is no illegality and perversity in the order. Since the appellant-Corporation had claimed the interest which fall within the Excepted Clause, therefore, Arbitrator did not have the jurisdiction. The specific objections was taken in the reply and the same has not been noticed by the Arbitrator and rightly so had taken into consideration by the Objecting Court.

I have heard learned counsel for the parties and appraised the paper book as well as record of the Courts below.

On going through the reply filed by the Miller before the Arbitrator, it is evident that Miller has not taken objections vis-a-vis jurisdiction of the Arbitrator, that, claim of the Corporation falls within the Excepted Clause as they claimed interest @ 21% per annum and 30% per annum. Since Miller is deemed to have been waived his right as per provision of Section 4 of the Act, in the absence taken any objections, I am supported by the ratio decidendi culled out by this Court in *M/s Adarsh Rice Mills (Supra)*. This aspect has not been noticed by Objecting Court while allowing the objections.

Accordingly, impugned order is set aside.

The matter is remitted back to the Objecting Court to decide the objections afresh on merits without taking into consideration the objections vis-a-vis Excepted Clause. The Objecting Court shall issued advance notice to the parties to the lis before hearing and deciding the appeal on merits.

Appeal is disposed of.

11.12.2015

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**(AMIT RAWAL)
JUDGE**