

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

FAO No.1146 of 2013 (O&M)

Date of decision : 24.09.2015

Punjab State Civil Supplies Corporation Ltd. Chandigarh and another

...Appellants

Versus

M/s Mahadev Rice Mills and another

...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: Ms. Deepali Puri, Advocate for appellants.

Mr. A.K. Bansal, Advocate for respondents.

AMIT RAWAL, J. (Oral)

Challenge in the present appeal is to the impugned order dated 09.01.2013, whereby objection filed by the Miller, under Section 34 of the Arbitration and Conciliation Act, has been accepted and the award dated 22.10.2007, has been set aside.

Ms. Deepali Puri, learned counsel appearing on behalf of appellants submits that though initially the appellants had filed the claim of ₹28 lakh (an odd amount) whereby ½ times economic cost had been sought but since same fell within the excepted clause, afresh claim, excluding the aforementioned amount, was submitted. The Arbitrator awarded amount of compensation to the tune of ₹45,547/- along with 15% p.a. interest thus, in essence, Arbitrator did not travel beyond the jurisdiction, much less, against the terms and conditions of the agreement. However, Objecting Court has

committed illegality and perversity in entertaining the objections that the claim was falling within the excepted clause and thus impugned order is liable to be set aside and the matter be remanded back to the appellate Court, to decide objections, afresh.

Mr. A.K. Bansal, learned counsel appearing on behalf of respondents submits that there is no illegality and perversity in the impugned order and appeal does not warrant any interference.

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

On going through the relevant portion of the award, it is manifest that Arbitrator did not grant the amount of ₹28,00,000/- as per the unamended claim.

It would be apt to reproduce the relevant portion of the award:-

“Therefore, the claim petition is allowed to this extent and a sum of Rs.45,547/- is awarded in favour of the claimant and against the respondent and its partners whose liability is joint and several as on 30.6.1995 with further interest payable at the rate of 15% p.a. from 1.7.1995 till the date of payment.

The Arbitral Award has been made and signed by me today i.e. 22.10.2007. One signed copy be sent to the claimant and another signed copy be sent to the respondent Firm under Regd. AD. The file after completion be consigned to the H.O. Record of PUNSUP.”

Whereas, the Objecting Court while accepting the objections erroneously formed opinion that PUNSUP claimed ½ times of economic cost and, therefore, the Arbitrator did not have the jurisdiction.

It would be apt to reproduce the finding rendered by the Objecting

Court:-

“Going by the authoritative pronouncement on the topic this Court is of the opinion that the dispute relating to economic cost for non-delivery of rice could not have been referred for arbitration and the arbitrator did not have the jurisdiction to adjudicate upon the same. This issue is decided accordingly.”

On juxtaposing of the finding rendered by the arbitrator and as well as Objecting Court, I am of the view that learned Additional District Judge has committed illegality and perversity in forming an opinion that claim fell within the excepted clause, in essence, PUNSUP had in its amended claim deleted the claim of ₹28 lakh, sought, on account of ½ times economic cost. The Objecting Court has not discussed the merit and demerits of the matter, except by holding, that controversy between the parties to the lis squarely fall within the provision of Excepted Clause of the agreement.

Keeping in view aforementioned finding, impugned order is hereby set aside and the matter is remitted back to the Objecting Court to decide the objections afresh, in essence, objection petition No.177 of 27.11.2007 is restored to its original number as the revised claim of the appellant did not contain element of amount falling within Excepted Clause.

Parties through their counsel are directed to appear before Objecting Court on 15.10.2015.

It is expected that objections shall be decided as expeditiously as possible.

Appeal is, accordingly, disposed of.

24.09.2015

pawan

**(AMIT RAWAL)
JUDGE**