

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

FAO No.2745 of 2015 (O&M)

Date of decision : 26.08.2015

Punjab State Warehousing Corporation

...Appellant

Versus

M/s Dhillon 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: Mr. Harsh Aggarwal, Advocate for the appellant.

AMIT RAWAL, J. (Oral)

CM No.8431-CII of 2015

This is an application u/s Section 151 CPC for condonation of delay of 1182 days in re-filing the appeal.

For the reasons stated in the application, which is supported by an affidavit, delay of 1182 days in re-filing the appeal is condoned.

The application stands disposed of.

CM No.8432-CII of 2015

This is an application u/s 5 of Limitation Act read with Section 151 CPC for condonation of delay of 83 days in filing the appeal.

For the reasons stated in the application, which is supported by

an affidavit, delay of 83 days in filing the appeal is condoned.

The application stands disposed of.

CM No.8433-CII of 2015

Prayer in the application is for placing on record Annexures A-1 to A-4 and exemption from filing the certified and true typed copies of Annexures A-2 to A-4.

Allowed, as prayed for.

Main Case

Challenge in the present appeal is to finding rendered in the award and as well as impugned judgment, whereby objections filed under Section 34 of Arbitration and Conciliation Act, 1996 at the instance of appellant, has been dismissed.

Mr. Harsh Aggarwal, learned counsel appearing on behalf of appellant submits that Arbitrator has not adjudicated the matter on merits and dismissed the reference only on the premise that original agreement had not been brought on record and photocopy did not bear the correct signatures of the Miller. Same finding was reiterated by Additional District Judge. However, Additional District Judge has gone step further by taking the agreement into consideration and found that even the claim sought was within the ambit of Excepted Clause No.8(iii) and, therefore, Arbitrator did not have the jurisdiction but the remedy lied with the Managing Director. The Miller in the written statement had taken the specific rejection in the proceedings before the Arbitrator. The Arbitrator has declined the reference on the aforementioned noticed observations.

The contention of Mr. Harsh Aggarwal, Advocate that since

Arbitrator did not ponder upon his jurisdiction, the matter requires to be remanded back to the Arbitrator for fresh adjudication.

I am not in agreement with the aforementioned contention, for the reasons, that claim sought by the appellant is within the Excepted Clause. It would be totally fallacious and futile exercise in remanding the matter to the Arbitrator, admittedly does not have the jurisdiction for grant of compensation and interest at the rate of 21% and 30%, which falls within the jurisdiction of the Managing Director.

There is no illegality and perversity in the impugned findings, much less, the order cannot be said to be without jurisdiction.

Appeal stands dismissed.

However, dismissal of the aforementioned appeal would not prevent the appellant to claim compensation and interest as noticed above by filing the claim before the competent authority in accordance with law and the findings rendered by the Courts below would not come in the way for adjudication of the same.

26.08.2015

pawan

**(AMIT RAWAL)
JUDGE**