

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

1. FAO No.5020 of 2015(O&M)
Date of decision : 11.08.2015

Punjab Agro Industries Corporation Ltd.

...Appellant

Versus

M/s Nagreeka Exports and another

...Respondents

2. FAO No.5021 of 2015 (O&M)
Date of decision : 11.08.2015

Punjab Agro Industries Corporation Ltd.

...Appellant

Versus

M/s Nagreeka Exports 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. A.C. Jain, Advocate for the appellant.

Mr. Anil K. Aggarwal, Advocate for the respondents.

AMIT RAWAL, J. (Oral)

CM No.15438-CII of 2015

The application is allowed as deficiency in Court fees has been

made good subject to all exceptions.

Application stands disposed of.

CM No.15439-CII of 2015

This is an application u/s 151 CPC for condonation of delay of 43 days in refiling the present appeal.

For the reasons stated in the application, which is supported by an affidavit, delay of 43 days in re-filing the appeal is condoned.

The application stands disposed of.

FAO Nos.5020 & 5021 of 2015 (O&M)

This order of mine shall dispose of two FAOs i.e. FAO No.5020 & 5021 of 2015 titled as Punjab Agro Industries Company Ltd. Vs. M/s Nagreeka Exports & another.

Challenge in the present appeal is to the order dated 04.09.2014, whereby objection filed by the appellant for modifying the arbitration award dated 17.08.2012 has been rejected whereas the objection filed by the claimant vis-a-vis the grant of interest at the rate of 6% p.a. by the Arbitrator for future interest has been allowed partly whereby 9% p.a. future interest has been ordered instead of 6% p.a.

Mr. A.C. Jain, learned counsel for the appellant i.e. Punjab Agro Industries Corporation Ltd. submits that counter claim filed by the respondent before the Arbitrator was not maintainable. De hors of the fact that the Arbitrator instead of declining the counter claim has entertained the same and passed the order thereof. He further submits that there was no demand or notice ever raised by the respondent. He further submits that objection filed against the award have also erroneously been dismissed by

the Court in not appreciating the aforementioned submission and 9% p.a. future interest ought not to have been awarded as the Arbitrator after taking into consideration the relevant factors awarded 6% p.a future interest.

I have learned counsel for the appellant.

This Court vide order dated 18.03.2011 and with the consent of both the parties appointed the Arbitrator. The order read thus:-

“Present petition is for appointment of Arbitrator under Section 11 of the Arbitration and Conciliation Act, 1996 arising out of an agreement executed between the parties dated 30.01.2003 (Annexure P-2).

Learned counsel for the respondent admits that the dispute between the parties are required to be adjudicated upon and requests that an independent and impartial Arbitrator be appointed by this Court.

With the consent of both the parties, Mr. Surinder Singh Walia, District and Sessions Judge (retd.) is appointed as Arbitrator. Learned Arbitrator shall be entitled to charge fee not exceeding Rs.5500/- per hearing and in aggregate for not more than ten hearings.

Disposed of.”

Even as per provision of Section 20(3) of the Arbitration and Conciliation Act, it does not prevent the parties to the lis particularly the respondent in not filing their statements in defence. The expression statement would also envisage the counter claim. No law has been cited to support the submission that counter claim by the respondent was not maintainable. There is no illegality and perversity in the order as order of the Principal Court in awarding 9% p.a. future interest is as per the ratio descendi culled out by various judgments laid by Hon'ble Supreme Court

and by this Court.

Even otherwise the Arbitrator has ordered to refund security deposit of ₹40,00,000/- after adjusting the amount/payment received by the respondent.

The arguments aforementioned is thus, devoid of merit and accordingly both the appeals are dismissed.

11.08.2015

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**(AMIT RAWAL)
JUDGE**