

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Letters Patent Appeal No.317 of 2015 (O&M)
DATE OF DECISION: 27.02.2015

Baba Ji Transport CompanyAppellant
versus

The General Manager (R) Food Corporation of India and others
.....Respondents

CORAM:- HON'BLE MR.JUSTICE S.J. VAZIFDAR, ACTING CHIEF JUSTICE
HON'BLE MRS. JUSTICE RAJ RAHUL GARG

Present: Mr. Keshav Pratap Singh, Advocate for
the appellant
..

S.J. VAZIFDAR, ACTING CHIEF JUSTICE (Oral):

This is an appeal against the order of the learned single Judge dated 13.11.2014 dismissing the writ petition by which the appellant sought payment of an amount of about Rs.35 lacs retained by the respondent on account of the alleged breach of contract by the appellant.

2. The appellant was awarded three contracts for the transport of material from Haryana to Rajasthan. The appellant contends that the condition of the road deteriorated to such an extent that it was not possible for their trucks to ply thereon. They rely upon the correspondence from the regional office admitting that the condition of the road was poor.

3. There are several disputed questions of facts which cannot possibly be gone into in a writ petition for recovery of money. The head office of the respondents did not accept the recommendation for waiver of the penalty on various grounds. For

instance, the supplies were to be effected between February, 2011 and 2013. The condition of the road is stated to have deteriorated in 2011 itself. The exact dates are not mentioned. It will be necessary to consider the period during which the vehicles allegedly could not be used on the proposed road. It is pertinent to note that the quantum of the order was reduced from 7500 metric tonnes to 5000 metric tonnes. The contract was performed. The appellant did not claim that the contract stood frustrated. They chose to perform the contract. The learned counsel mentioned that the contract was performed by taking an alternate route. Assuming the appellant's contention regarding the condition of the road to be correct, it would still require to be considered whether the appellant's claim is now only for damages to the extent of the additional costs incurred by taking an alternate route.

4. It is obvious that the dismissal of this writ petition does not affect the appellant's case on merits in any manner whatsoever. All that is implied in the impugned order and by this order is that there are several disputed issues which cannot conveniently be gone into in this writ petition.

5. The appeal is accordingly disposed of.

As we have disposed of the main appeal itself, the delay in filing the appeal stands condoned.

(S. J. VAZIFDAR)
ACTING CHIEF JUSTICE

27.02.2015
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(RAJ RAHUL GARG)
JUDGE