

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CR No. 1451 of 2016
Date of decision : February 26, 2016

M/s Gill Rice Mills

..... Petitioner

Versus

Punjab State Grains Procurement Corporation and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Mukand Gupta, Advocate
for the petitioner.

1. Whether reporters of local papers may be allowed to see the judgment ?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

Amit Rawal, J (oral).

The petitioner is aggrieved of the order whereby application filed at the instance of the respondents under Section 8 of the Arbitration and Conciliation Act, 1996 (hereinafter called as 'the Act') has been allowed. The parties have been relegated for resolution of dispute by way of arbitration.

Learned counsel for the petitioner submits that the suit was filed for recovery of amount of ₹15,12,000/- and redemption of accounts for the crop year 2012-13. The application filed under Section 8 of the Act is not accompanied by certificate of original copy of the agreement to sell but photocopy of the same has been attached. The written statement had already been filed, therefore,

application is not maintainable.

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

In paragraph 5 of the plaint, the petitioner is admitting execution of the agreement by relying upon clause 14 of the agreement. Para 5 of the plaint is reproduced hereinbelow:-

“That, again during the crop year 2012-13, the plaintiff was attached with the defendants from custom milling. Again the plaintiff deposited a cheque No. 542375 dated 28.11.2012 worth Rs. 3,00,000/- (Rupees three lacs) in favour of the defendants. But the defendants did not bother to issue any paddy to the plaintiff. It was told by the officials of the defendants that, paddy of crop year 2012-13 will only be supplied after 31.12.2012. As such, they even encashed the above said cheque only on 8.1.2013. However, the officials of the defendants got the signatures of the plaintiff No.2 on some blank papers and stamp papers for completion of formalities. It is pertinent to mention over here that as per agreement clause 14 “No paddy shall be stored in a rice Mill which does not deposit the requisite security amount.” Hence, no paddy was issued or stored in the premises of the plaintiff prior to 8.1.2013. The plaintiff is also entitled to get back this amount of three lakhs from the defendants with interest @ 18% per annum with effect from 8.1.2013 to uptill now and further with future interest till its actual realization.”

In view of the aforementioned fact, the plaintiff

cannot be permitted to take up the plea that the application is not accompanied by certified or original copy of the agreement and agreement admittedly, has been entered into between the plaintiff and respondents for supply of custom milled rice on account of respondents who is supplying to the FCI. The terms and conditions of the agreement are sacrosanct. The agreement contains arbitration clause. The same is reproduced hereinafter:-

“27. All the disputes and differences out of or in any manner not touching or concerning this agreement whatsoever shall be referred to the sole arbitrator of the Managing Director or any person appointed by him in this behalf. There will be objection to any such appointment that the person appointed is or was an employee of food and supplies department, Punjab/Agency or that he had to deal with the matter to which the contract relates and that in the course of his duties such an employee of the Food Civil Supplies and Consumer Affairs Department, Punjab/Agency had expressed his views on all or any of the matter in dispute or difference. The award of such Arbitrator shall not be final and is subject to decision of Civil court. It is a term of this contract that in the event of the Arbitrator being transferred or vacating his office or being unable to act for any reason, the Managing Director at the time of such transfer, vacation of office, death or inability shall appoint another person to act as Arbitrator. Such a person shall be entitled to proceed with reference from and the stage where it was left by his predecessor.”

In view of the aforementioned facts, I do not find

any illegality and perversity in the impugned order and the same cannot be said to have been passed without jurisdiction. The petitioner-plaintiff shall be entitled to take all the pleas viz-a-viz one taken in the suit before the arbitrator.

The revision petition is devoid of merits.

Accordingly the same is dismissed.

(AMIT RAWAL)
JUDGE

February 26, 2016
archana