

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R. No.207 of 2016 (O&M)

Date of Decision.14.01.2016

M/s Guru Kirpa Rice Mills

.....Petitioner

Vs.

Punjab State Grain Procurement Corporation Ltd. and others

.....Respondents

Present: Mr. Inderjit Sharma, Advocate
for the petitioner.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

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?

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K. KANNAN J. (ORAL)

1. In proceeding before an Arbitrator, the petitioner was trying to rely on some receipt alleged to have been issued by the present petitioner and referred to the document as Ex.C4. The petitioner's objection to the document on the basis of which a provisional claim seems to have been made is that it has not been a receipt issued by respondent and it was a forgery. After filing such an objection, he has moved an application for appointment of a handwriting expert to assess the genuineness of the document. The Arbitrator has rejected the plea on the ground that if it was a case of forgery, it should have been taken up even earlier. The grievance is that the document was filed and amended claim was made purported to be a provisional claim only subsequently. Therefore, there was no occasion for him to plea about the forged nature of the document. I do not think it is necessary for me to make any interference here at this stage, for a person, who relies on document which is denied by yet another person to be forgery, must

undertake the burden of proving the document. If the person has not himself taken any steps, it is unnecessary to complicate the procedure by having an expert appointed at the instance of the respondent. It will be open for the person relying on the document to bring such evidence as it is necessary and the petitioner can rest happily on his own plea that the document is forgery and put the burden on the other side to establish the same. If the Arbitrator has not appointed the expert for any reason, I will not find it to be an illegal order for intervention under Article 227 of the constitution, for limit of intervention by the Civil Court or High Court in arbitral proceeding must be exceedingly restricted. Unless there is a proven misconduct or there are matters which are relevant for a Court to consider, there could be no reason for interference. I will only clarify that the Arbitrator will still examine that the burden of establishing the document which is relied on by the opposite party will be only on the opposite party and that the burden will not be on the petitioner. Again the Arbitrator will examine the objections given by the petitioner that he had no occasion to deny before the document was filed through the provisional claim and therefore, the Arbitrator's own reasoning that this objection must have been taken earlier was not according to the petitioner tenable. This objection may also be noticed by the Arbitrator in the course of his proceedings.

2. With these observations, the revision petition is disposed of as requiring no intervention.

(K. KANNAN)
JUDGE

January 14, 2016

Pankaj*