

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 8362 of 2010 (O&M)

Date of Decision: 11.04.2016

Food Corporation of India and Others

... Petitioner(s)

Versus

M/s Sunder Dass Kasturi Lal Rice Mills

... Respondent(s)

CORAM: Hon'ble Mr. Justice Shekher Dhawan.

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| 1. | Whether reporters of local newspapers may be allowed to see judgment? | Yes |
| 2 | To be referred to reporters or not? | |
| 3 | Whether the judgment should be reported in the Digest? | Yes |

Present: Mr. K.K.Gupta, Advocate
for the petitioner(s).

Mr. T.N.Sarup, Advocate
for the respondent(s).

Shekher Dhawan, J.

Present petition is challenge to the order dated 29.1.1999 and the decree dated 18.9.2009, passed by learned Additional Civil Judge (Senior Division), Batala and order dated 4.9.2008, passed by learned Additional District Judge (Ad hoc), Fast Track Court, Gurdaspur, whereby award dated 21.5.1996 has been made Rule of the Court.

Facts relevant for the purpose of decision of the case that there was dispute between the parties and the arbitrator was appointed, who pronounced the award dated 21.5.1996 and the Courts below passed the orders under challenge.

Learned counsel for the petitioners mainly submitted that as per provisions of Section 17 of the Arbitration Act, 1940 (hereinafter referred to as "the Act"), the Civil Court, after considering the objections of the parties, was required to pass the judgment & decree, whereas in the present case, neither any judgment was passed nor the decree and as such vide order passed by the Court below, it cannot be construed that the award passed by the Arbitrator can be made Rule of the Court. Despite direction issued by the Court of learned Additional District Judge (Ad hoc), Fast Track Court, Batala, the Court of first instance initially passed the decree but till date, no judgment has been passed.

Learned counsel for the respondent also fairly conceded that no judgment has been passed in this case.

Having considered the submissions made by learned counsel for the parties, this Court is of the view that orders dated 29.1.1999 and the decree dated 18.9.2009, passed by learned Additional Civil Judge (Senior Division), Batala and order dated 4.9.2008, passed by learned Additional District Judge (Ad hoc), Fast Track Court, Gurdaspur, are liable to be set aside because no judgment has been passed in this case as required under Section 17 of the Act. Relevant Section 17 of the Act reads as under:-

"17. Judgment in terms of award:- Where the Court sees no cause to remit the award or any of the matters referred to arbitration for reconsideration or to set aside the award, the Court shall, after the time for making an application to set aside the award has expired, or such

application having been made, after refusing it, proceed to pronounce judgment according to the award, and upon the judgment so pronounced a decree shall follow and no appeal shall lie from such decree except on the ground that it is in excess of, or not otherwise in accordance with, the award."

The above provisions make it ample clear that after pronouncement of the award by the Arbitrator, the Court was required to pronounce the judgment and decree was to be drawn accordingly but that has not been done and as such order dated 29.1.1999 and decree dated 18.9.2009, passed by learned Additional Civil Judge (Senior Division), Batala and order dated 4.9.2008, passed by learned Additional District Judge (Ad hoc), Fast Track Court, Gurdaspur cannot be said to be legal one and the same are liable to be set aside.

In view of the discussions made above, present revision petition is hereby accepted and order dated dated 29.1.1999 and decree dated 18.9.2009, passed by learned Additional Civil Judge (Senior Division), Batala and order dated 4.9.2008, passed by learned Additional District Judge (Ad hoc), Fast Track Court, Gurdaspur are hereby set aside. The matter is remanded back to the Court below with the direction to pass judgment & decree as required under Section 17 of the Act.

(Shekher Dhawan)
Judge

April 11, 2016
"DK"