

Civil Revision No.8513 of 2015

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

Civil Revision No.8513 of 2015

Date of decision: 16.02.2016

M/s S.R. Rice Mill

....Petitioner

Versus

Punjab Agro Food Grains Corporation Limited and another

....Respondents

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH DHALIWAL

- 1) Whether Reporters of the 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 ?

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

Mr. Anupam Singla, Advocate, for respondent No.1.

PARAMJEET SINGH DHALIWAL, J. (ORAL)

The instant revision petition has been filed under Article 227 of the Constitution of India for quashing the order dated 06.11.2015 passed by respondent No.2 – Arbitrator, whereby the application moved by the petitioner under Section 26 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as 'the Act'), has been dismissed.

Brief facts of the case, as averred in the petition, are that petitioner is doing the business of shelling paddy. For the crop year 2012-13 some paddy was allotted by respondent No.1 to one Sumit Rice Mill, Malout. However, due to failure of shelling paddy by Sumit Rice Mill, respondent No.1 shifted and transferred the paddy to the petitioner on 22.01.2013 without any arbitration agreement. Thereafter some

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dispute arose between the parties and respondent No.1 filed petition under section 9 of the Act before the learned District Judge Sri Muktsar Sahib stating therein that the petitioner had entered into arbitration agreement dated 15.01.2012 and had failed to mill the paddy, therefore, respondent No.1 sought interim measures restraining the petitioner from alienating/transferring/mortgaging the property. Thereafter, respondent No.1 raised the arbitration dispute by referring the matter for arbitration. Initially Managing Director, Punjab Agro Foodgrains Corporation Ltd. himself acted as Arbitrator and respondent No.1 filed the arbitration claim before the Managing Director stating that petitioner had entered into arbitration agreement dated 15.01.2013 and not 15.01.2012. Respondent No.1 had placed on record arbitration agreement in which the date of arbitration agreement was changed. Further name of the respondent-corporation had been added by handwritten entries and also by tampering the original arbitration agreement and signatures of the witnesses were added by respondent No.1. Original arbitration agreement is in the custody of respondent No.1 and respondent No.1 had filed the photo copy of the same arbitration agreement before the Senior Superintendent of Police as well as District Judge, Sri Muktsar Sahib wherein neither there was any cutting on the date of arbitration agreement nor the name of the respondent-Corporation was added nor the name of the witnesses had been added. Thereafter, respondent No.2 was appointed as Arbitrator vide order dated 24.2.2015. After examination of the record, petitioner came to know that respondent No.1

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had tampered with the arbitration agreement as the respondent No.1 had placed on record the same very arbitration agreement before the learned District Judge, Sri Muktsar Sahib and before the Arbitrator. Admission of two arbitration agreements, Annexure P-2 and P-4 respectively, shows that there was cutting and tampering on the arbitration agreement. Further petitioner came to know that Managing Director, Agro Foodgrains Corporation Ltd., had no power under Clause 17 of the arbitration agreement to appoint the Arbitrator, therefore, even the appointment of the Arbitrator/respondent No.2 was illegal. Petitioner moved an application under Section 26 of the Act, which has been dismissed vide impugned order. Hence, this revision petition.

I have heard learned counsel for the parties and perused the record.

Learned counsel for the petitioner vehemently contended that the dates in the agreement have been tampered with and the petitioner has right to prove the same by getting Annexures P-2 and P-4 compared with each other and also to indicate that tampering is without consent of the petitioner as the photocopies which have been placed on record do not bear the signatures of the executant of the agreement, specifically the petitioner.

On the other hand, learned counsel for respondent No.1 vehemently contended that they have already filed an affidavit before the arbitrator regarding corrections made in the agreement with consent of the petitioner and witnesses have also given affidavit to that effect.

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I have considered the contentions raised by learned counsel for the parties.

Be that as it may, the fact remains that petitioner, who is disputing the corrections made in the agreement, has a right to prove the interpolations and alterations in accordance with law. For that petitioner wants to examine the handwriting and fingerprint expert. For the just decision of the case and with regard to the validity of the agreements evidence of handwriting and fingerprint expert is necessary.

In view of above, impugned order is set aside and revision petition is allowed. Petitioner is afforded two opportunities to conclude his evidence of the handwriting expert. He will not be allowed to linger on the proceedings before the arbitrator. Since the limited issue is with regard to rejection of the application for examining the handwriting expert as witness, if other rights are available to the petitioner he can also avail the same but that too in accordance with law.

(Paramjeet Singh Dhaliwal)
Judge

February 16, 2016
R.S.