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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-5311-2009 (O&M)
Date of decision : 17.05.2016

M/s Anokh Singh & Company

... Appellant

Versus

Punjab State Civil Supplies and Marketing Federation Ltd. and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. S.K. Singla, Advocate
for the appellant.

Mr. Vikas Chatrath, Advocate and
Mr. Gurpreet Singh, Advocate
for the respondents.

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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 appellant-M/s Anokh Singh and Company is aggrieved of the dismissal of the objections filed under Section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter called 'the 1996 Act') seeking setting aside of the Award dated 26.10.2004.

Mr. S.K. Singla, learned counsel appearing on behalf of the appellant submits that the Arbitrator did not have jurisdiction as the claim was falling within the excepted clause, in essence, over and above the other claims, the MARKFED had also sought 1.5 times economic cost and interest @ 21% per annum. The specific objection, in this regard, was taken, but there is no adjudication to the same and even the Objecting Court has gone in the arena of surmises and conjectures by holding that an application under Section 16 of the 1996 Act was filed and the same was dismissed, whereas no such application was filed. As per the terms and conditions of the agreement, the claim of economic cost @ 1-1/2% per annum and interest @ 21% per annum, was falling within the domain of Managing Director, therefore, the Arbitrator did not have the jurisdiction.

Mr. Vikas Chatrath, Advocate and Mr. Gurpreet Singh, learned counsel appearing on behalf of the respondents submits that the Award did not envisage the awarding of economic cost @ 1-1/2% per annum and interest @ 21% and therefore, these objections are fully misconceived, thus, prays for dismissal of the appeal.

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

For the sake of brevity, the operative part of the Award reads thus:-

> "In the light of foregoing discussions, pleadings given by both the counsels/parties, documents produced, arguments given and also cross-examination of evidence submitted by each party and applying my mind award that cost of Bardana recoverable ₹ 1,20,596/- loss for shortage of paddy ₹ 50,92,590/- loss on account of unauthorized conversion of paddy ₹ 79,79,868/- loss on account of shortage above 2% ₹ 89,501/- interest on late submission of documents ₹ 21,658/- Quality cuts ₹ 55655/- and Income tax ₹ 2092/- are payable by the respondent out of which, I

allow deduction of milling charges ₹ 90,946/- double line machine charges ₹ 9063/- cost of excess rice ₹ 568/- amounts deposited/adjusted ₹ 69,91,853/- making net recoverable ₹ 62,62,861/- from the respondent along with interest at bank rate since 30.06.1995 and further interest at bank rate till realization of amount.

Award is made by me today on 26.10.2004. One signed copy of the award be sent to respondent. Original be sent to claimant".

On going through the Award, it is evident that the Arbitrator has not granted the alleged benefit of economic cost @ 1-1/2% per annum, therefore, the objections qua jurisdiction of the Arbitrator with regard to the claim on such account was wholly misconceived, thus, the Arbitrator had jurisdiction to try and entertain the claim of the MARKFED.

For the foregoing reasons, no ground is made out for interference in the findings, under challenge and accordingly, the appeal is dismissed.

17.05.2016 **(AMIT RAWAL)**
yogesh **JUDGE**