IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.6702 of 2011 (O&M)
Date of decision : 22.01.2016

Punjab State Civil Supplies Corporation Ltd. (PUNSUP) and another

...Appellants

Versus

M/s Kundan Rice and General Mills and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

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

Present: Mr. Rakesh Gupta, Advocate for appellants.

Mr. Harkaran Singh, Advocate for
Mr. B.S. Bhalla, Advocate for respondents.

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AMIT RAWAL, J. (Oral)

The PUNSUP is aggrieved of the order dated 22.07.2011, whereby objections submitted on behalf of Miller against the award dated 08.06.2007, has been allowed.

Mr. Rakesh Gupta, learned counsel appearing on behalf of appellants submits that Miller had not taken any objection vis-a-vis the claim having been falling under the Excepted Clause. Even otherwise on perusal of the claim as noticed in the award, none of the claim was falling within the purview of the Excepted Clause. The awarding of the interest at the rate of 21% was in accordance with law. Aforementioned facts have not been noticed by the Objecting Court while accepting the objections and thus there is illegality and perversity.

Mr. Harkaran Singh, learned counsel appearing on behalf of Miller submits that there is no illegality and perversity in the order as the objections were falling within the parameters of Section 34 of the Act. The claim of interest at the rate of 21% was falling within the Excepted Clause and rightly so objections have been accepted.

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

Clause 7 of the agreement reads thus:-

> *"7. The miller shall be responsible for the safe custody of paddy lifted till the delivery of rice as per out-turn-ratio fixed by Government Miller shall also make good the losses that may be incurred in paddy and rice during transit/storage at the rates of custom milled rice fixed by Government of India plus interest at the rates of 21% from the date it becomes payable till the date of actual realisation of converted variety of paddy or rice toward the short fall."*

The Arbitrator has awarded interest by taking into consideration the aforementioned Clause. Miller has not taken any objections vis-a-vis Excepted Clause, though claim was not falling within the Excepted Clause. Even if it so, the same is deemed to have been waived in view of Section 4 of the Act. This fact has not been noticed by the Objecting Court. Thus, order under challenge is not sustainable and is hereby set aside.

In view of what has been observed above, appeal is allowed.

22.01.2016 **(AMIT RAWAL)**
pawan **JUDGE**