

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

FAO No. 2301 of 2013(O&M)
Date of decision : February 10, 2016

M/s Karanbir Rice Mills

..... Appellant

Versus

Punjab Agro Food Grains Ltd.and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Parveen K. Kataria , Advocate
for the appellant.

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).
CM NO. 10814-CII of 2013

This is an application under Section 149 read with
Section 151 CPC for making good the deficiency in court fees.

The application is allowed.

Permission granted to make good the deficiency in
court fee.

CM NO.2897-CII of 2016

C.M.is allowed.

Annexures A-1 to A-4 taken on record subject to all
just exceptions.

FAO No.2301 of 2013(O&M)

The Miller-M/s Karanbir Rice Mills through Baljit

Singh a partner of the firm is in appeal under Section 37 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as 'the 1996 Act') whereby objection filed under Section 34 of the 1996 Act against the award dated 16.4.2004 passed by the arbitrators, has been dismissed. This Court had called upon Mr. Parveen K. Kataria, learned counsel appearing on behalf of the appellant to supply copy of the zimni orders of the arbitration proceedings which have been placed on record by CM No. 2897-CII of 2016 as Annexures A-1 to A-4.

On going through the zimni orders, it has been found that signed copy of the award was ordered to be sent to the M.D.of the claimant and Miller through registered A.D. post. Memo of Parties in the claim petition reads thus:-

“Punjab Agro Food Grains Ltd.having its regd.office at Plot No.2-A Sector 28-A, Madhya Marg, Chandigarh (PAIC) through its District Manager PAIC, Amritsar.

Vs.

- 1. M/s Karambir Rice Mills, Gومتala Distt. Amritsar through partners, Shri Gurdeep Singh and Shri Baljit Singh, r/o Gومتala Distt. Amritssar.*
- 2. Shri Gurdeep Singh s/o Shri Chuhar Singh, r/o Gومتala district Amritsar.*
- 3. Shri Baljit Singh s/o Shri Chuhar Singh, r/o Gومتala District Amritsar.”*

It is a matter of record that joint written statement was filed by the partners who are none else but brother and son of Chuhar Singh. Copy of the award was received by Gurdeep Singh

who is stated to have not filed the objections. Baljit Singh has coined a story and filed the objections after a period of six months taking the benefit of form “each party” in 31 (5) of the Act on receipt of notice of the execution proceedings.

Learned counsel for the appellant in support of his contentions has relied upon the judgment rendered by Hon'ble Supreme Court in **The State of Maharashtra and others Vs. M/s Ark Builders Pvt. Ltd. In Civil Appeal No. 2152 of 2011** arising out of SLP (Civil) No. 14308 of 2010.

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

Section 22 of the Indian Partnership Act, 1932 (hereinafter called as 'the Act') provides that in order to bind the firm in an act or instrument done or executed by a partner or other person on behalf of the firm shall be done or executed in the firm name, or in any other manner expressing or implying an intention to bind the firm. In essence, Section 19 also provides the implied prescribed authority of a partner of a firm except for certain forbidden actions prescribed under sub section 2 of Section 19 of the Act. Both the partners contested the claim of Punjab Agro Food Grains Limited by filing a joint written statement, much less engaged the same counsel. As per postal receipt Annexure A-4, copy of the award has been received on 23.4.2004. No case is made out that both the partners are not living together, much less are not in speaking terms. One of them woke up only when they received copy of the notice in the execution petition and filed objections belatedly after 5 years.

Rightly so, the objections have been dismissed being barred under the provisions of Section 34(3) of the 1996 Act, thus ratio decidendi culled out by the Hon'ble Supreme Court in **The State of Maharashtra and others's case (supra)** would not apply to the present case. The zimni orders of the arbitrator reveal that signed copy has been sent and not a Xerox copy.

The appeal stands dismissed.

(AMIT RAWAL)
JUDGE

February 10 , 2016
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