216

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.1732 of 2016 (O&M)
Date of decision : 02.06.2016

M/s Shankar Rice Mills and another

... Appellants

Versus

Punjab Agro Food Grain Corporation Ltd.

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Gaurav Chopra, Advocate and
Mr. Anurag Chopra, Advocate
for the appellants.

Mr. Anupam Singla, Advocate
for the respondent.

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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(s)-Miller is aggrieved of the impugned order, whereby, in the proceedings initiated under Section 9 of the Arbitration and Conciliation Act, 1996 (hereinafter called 'the 1996 Act'), have been restrained not to alienate the property during the pendency of the arbitration proceedings.

Mr. Gaurav Chopra and Mr. Anurag Chopra, learned counsel appearing on behalf of the appellant(s)-Miller submits that in pursuance to the agreement entered into between the appellant(s) and the Punjab Agro Food Grain Corporation Ltd. (hereinafter called 'PAFGCL'), an order under Section 17 of the 1996 Act was passed by the then Arbitrator on 28.04.2014 and the same was modified by this Court vide order dated 15.01.2016 passed in ***CR No.258 of 2016*** titled as ***"M/s Shankar Rice Mills V/s Punjab Agro Food Grain Corporation and another"***, whereby the sale proceed of paddy had been directed to be deposited in the bank account preferably in a Term Deposit Account. In the meantime, the Arbitrator had been replaced, but instead of moving an application before the Arbitrator under Section 17 of the 1996 Act, remedy under Section 9 of the 1996 Act has erroneously been obtained which is not permissible in law.

Mr. Anupam Singla, learned counsel appearing on behalf of the respondent submits that for seeking a restraint order as has been noticed above, only the provisions under Section 9 of the 1996 Act could have been invoked and not under Section 17 of the 1996 Act as Section 17 of the 1996 Act deals with the subject matter of the paddy, but as the provisions of Section 9 of the 1996 Act, scope is larger.

I have heard the learned counsel for the parties and appraised the paper book and I am not in agreement with the submissions of Mr. Gaurav Chopra, as the paddy though already sold and amount stood deposited, but the fact remains that for alleged recovery to the tune of ₹ 4 Crores (approximately) is due from the Miller, whereas the paddy is to the tune of ₹ 2 Crores and therefore, the agency had no other option, but to invoke the provisions of Section 9 of the 1996 Act, as provisions of Section 17 of the 1996 Act, as per the language of the Statute, could not have been invoked. In my view, non-alienation of the property, during the pendency of the Arbitration proceedings, will not cause any harm and prejudice to the parties as appellant(s) has no intention to sell the property.

The order, under challenge, would only be operative till the pendency of the arbitration proceedings.

It is expected that the Arbitrator, who has already entered into reference, shall expedite the disposal of the arbitration proceedings as early as possible preferably within a period of 10 months.

No ground is made out for interference and accordingly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

02.06.2016
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