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

**FAO-9192-2014 (O&M)
Date of decision : 11.04.2016**

M/s Pammi Rice and General Mills and another

...Appellants

Versus

Punjab State Civil Supplies Corporation Ltd. and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Rajan Bansal, Advocate
for the appellants.

Mr. Aman Chaudhary, Advocate
for respondent Nos.1 and 2.

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 appellants are aggrieved of the impugned order dated 07.05.2012, whereby the petition under Section 9 of the Arbitration and Conciliation Act, 1996 (hereinafter called 'the 1996 Act') has been allowed and as well as the order dated 17.09.2014 vide which the review application of the aforementioned order has been dismissed.

Mr. Rajan Bansal, learned counsel appearing on behalf of the appellants submits that the Award dated 30.08.2000 was against M/s Monga

Enterprises and Mr. Hitesh Monga, whereas the application under Section 9 of the 1996 Act filed in the execution proceedings has been allowed and M/s Pammi Rice and General Mills i.e. the appellant(s) has been restrained from alienating the land measuring 15 kanals 3 marlas as mentioned in the impugned order on the premise that M/s Monga Enterprises is a lessee on such land. He submits that, once his client-appellant is not a judgment debtor, the land belonging to the appellant(s) cannot be put to restraint order as has been noticed above. Provisions of Section 9 of the 1996 Act does not apply being no privity.

Mr. Aman Chaudhary, learned counsel appearing on behalf of respondent Nos.1 and 2 submits that the appellants had undertaken to discharge the liability of M/s Monga Enterprise and in these context, the application under Section 9 was filed. The Court below had noticed this fact, which is reproduced in the paragraph 4 of the impugned order which reads thus:-

“It is further case of the petitioner that the respondents leased out its factory namely M/s Pammi Rice & General Mills, Goniana to Hitesh Monga, Prop. of M/s Monga Enterprises, Bathinda Road, Goniana and Hitesh Monga applied for custom milling of the paddy for the year 1997-98. The said Hitesh Monga Prop. Stored the above said paddy in the premises of the petitioner corporation for custom milling but Pawan Kumar Monga died on 08.10.1998. The respondent firm through its partner Surinder Kumar Monga executed a deed of surety in favour of the petitioner. Hitesh Monga has also failed to deliver the rice to the FCI, consequently the petitioner filed its claim with the Arbitrator to the tune of

₹ 49,39,107.37 P and Arbitrator was also appointed who has given his award dated 30.08.2000 for ₹ 49,39,107.37P. Thus, amount of three awards is stated to be outstanding against the respondents”.

In view of such observations, there is no illegality and perversity as the amount was stated to be outstanding against the respondents.

In rebuttal, Mr. Rajan Bansal, Advocate submits that as per letter dated 03.03.2011 (Ex.A-5), the liability qua the other Awards was discharged, therefore, the said observations, are totally misplaced.

I have heard the learned counsel for the parties and appraised the paper book and of the view there is force in the submissions of Mr. Rajan Bansal, for the reason, that as per the conceded position on the record, the Award is against the M/s Monga Enterprises and Hitesh Monga. Since, M/s Monga Enterprises is a lessee on M/s Pammi Rice & General Mills and it does not mean that PUNSUP can seek the attachment or seek restraint order in respect of property belonging to the third party. PUNSUP shall be at liberty to seek the execution of the decree in accordance with law, but cannot seek attachment of the property of appellant, much less, seek restraint order qua third party.

Keeping in view the aforementioned facts and circumstances of the case, impugned order dated 07.05.2012 and 17.09.2014 are hereby set aside and accordingly, the appeal stands allowed.

11.04.2016
yogesh

(AMIT RAWAL)
JUDGE