

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

FAO No. 931 of 2016(O&M)
Date of decision : February 16, 2016

M/s Mahaluxmi Rice and Agro Mills

..... Appellants

Versus

**The Punjab State Cooperative Supply and Marketing Federation
Chandigarh and others**

..... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Karan Singla, 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.2943-CII of 2016

This is an application under Section 151 CPC seeking condonation of delay in refiling the appeal.

For the reasons stated in the application, which is duly supported by an affidavit, delay of 03 days in refiling the appeal is condoned.

The application stands disposed of.

FAO No. 931 of 2016(O&M)

The appellant-miller is aggrieved of the order dated 15.7.2015 of the objecting court whereby the objections filed under Section 34 of the Arbitration and Conciliation Act, 1996 seeking setting aside of the award dated 19.7.2013 have been dismissed.

Learned counsel appearing on behalf of the appellant has raised two fold argument, one that the agreement was not signed by the miller and second that the department did not supply the same quality of the paddy which was agreed to be supplied. These facts have been ignored by the arbitrator, thus, there is illegality and perversity in the impugned order. The objections filed, in this regard, have also met with the same fate.

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

It is a matter of record that in pursuance to the agreement the miller has received the paddy and there was no objection with regard to the quality of the paddy stated to have been supplied. The plea of quality has been raised for the first time when the claim was filed for non supply of the complete custom milled rice to the Food Corporation of India. These objections were not falling within the realm of Section 34 of the Act.

It is now a settled law that as to under what circumstances the award has to be interfered with. The question which has now been raised in the aforementioned appeal has already been answered by the Hon'ble Supreme Court in catena of judgments wherein it has been laid down that until and unless the award suffers from illegality as statutorily prescribed under Section 31 (3) of the Act, the same cannot be interfered with. In this context I intend to refer the judgments of Hon'ble Supreme Court in **Associate Builders Vs. Delhi Development Authority (2015) 3 SCC 49 and**

Navodaya Mass Entertainment Ltd. J. M. Combines (2015) 5 SCC

698. In the aforementioned judgment the Hon'ble Supreme Court had culled out the ratio decidendi by holding that until and unless there is error apparent on the face of record or the arbitrator has not followed statutory legal position, it is only in these circumstances it would be justified interfering with the award. The High Court should not act as a Court of appeal and reappraise the material/evidence and embarked on a path by substitution in its own view. The Arbitrator has dealt with the dispute which was contemplated and was within the scope of it.

It is now a settled law that the Arbitrator is the sole judge of quality and quantity of the evidence before him and decide on the basis of the available evidence.

In my view, no error of law arise from the award. The award is perfect and justified and all the objections filed against the same were wholly misconceived.

There is no merit in the aforementioned appeal.

The appeal is accordingly dismissed.

**(AMIT RAWAL)
JUDGE**

**February 16, 2016
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