

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

**CR No.6400 of 2016
Date of Decision: 13.07.2017**

M/s Kapoor Rice and General MillsPetitioner
Versus
Punjab State Cooperative Supply and Marketing
Federation Ltd. and others ... Respondents

CORAM:-HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. Mukand Gupta, Advocate
for the petitioner.

Mr. Sumit Jain, Advocate
for the respondents.

RAJ MOHAN SINGH, J.(ORAL)

[1]. During pendency of the arbitral proceedings, an application under Section 17 of the Arbitration and Conciliation Act, 1996 was moved by the respondent-Federation to allow the auction of the paddy stocks in the custody of the petitioner and also to restrain the petitioner from alienating the land, plant and machinery during pendency of the arbitral proceedings.

[2]. Learned counsel for the petitioner submits that so far as stock of paddy is concerned, his revision petition may be dismissed, but the land, plant and machinery were under mortgaged with State Bank of India and the Bank has already issued a notice under Section 14 of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, against which appeal has already been filed by the petitioner before the Debt Recovery Tribunal (DRT),

Chandigarh which is still pending.

[3]. Bank is having first charge over the property, therefore, no interim order qua the alienation of the property viz. land, plant and machinery could be passed by the Arbitrator. On a specific query asked from the petitioner, learned counsel for the petitioner submits that the petitioner in any case cannot sell the property in question by any possible means.

[4]. In view of above, I am of the view that the Bank is prosecuting lawful remedy under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and the petitioner has a right to participate in those proceedings as per his remedies. Since the Bank is having first charge over the land, plant and machinery, any claim made by the respondent-Federation under Section 17 of the Arbitration and Conciliation Act, 1996, *prima facie* would not cover the mortgaged property. It is made clear that the application for interim relief under Section 17 of the Arbitration and Conciliation Act, 1996 is to be construed only in terms of subject matter of the dispute.

[5]. With the aforesaid observations, this revision petition stands dismissed.

13.07.2017

prince

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)**JUDGE**

: Yes/No

: Yes/No