

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-4890-2006 (O&M)
Date of Decision: July 05, 2017

Punjab State Civil Supplies Corporation Limited and another
...Appellants
Versus
M/s Kamal Rice Mills and others
...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Ms. Deepali Puri, Advocate,
for the appellants.

Mr. Sameer Sachdeva, Advocate,
for respondent Nos. 1 to 3.

ARUN PALLI, J. (ORAL)

This is an appeal against the judgment, dated 13.05.2006, rendered by the District Judge, Ferozepur, vide which he dismissed the objections preferred by the appellants under Section 34 of the Arbitration and Conciliation Act, 1996 (for short, 'the Act').

The respondent-miller was allotted paddy by the District Food and Supplies Controller, Ferozepur (DFSC), for custom milling for the crop-year 1995-96. Pursuant to the agreement, dated 08.10.1995, entered into between the parties, the respondent-miller was to mill the paddy and supply the resultant rice to the FCI in the account of PUNSUP. 38331 bags of paddy of fine quality were entrusted to the respondent-miller, which was to be delivered to the FCI up to 30.06.1996. The respondent-miller failed to deliver the rice within the specified time. Resultantly, the appellants invoked the arbitration proceedings. The respondent-miller too filed a counter claim. Vide arbitral award, dated 28.12.2001, the arbitrator partially granted the claim of the appellants. As a result, the appellants

were awarded Rs.11,44,424/- with costs and future interest @ 21% per annum with effect from 01.09.1998 till its realization. However, the claim of the appellants, i.e. Rs. 5,36,893/-, as regards transportation charges, was rejected by the arbitrator. The counter claim made by the respondent-miller was also declined. As a result, both the parties filed their respective objections under Section 34 of the Act. And since, as indicated above, the objections filed by the appellants were dismissed, the appellants are before this Court.

In short, the claim of the appellant-Punsup was/is that it had shifted 36999 bags of paddy from the rice mill of the respondent-miller, for which it had incurred an expense of Rs. 5,36,893/-, as transportation charges, which were recoverable from the respondent-miller. The only document that was relied upon by the appellant was a statement (P-1/7). The arbitrator, on an analysis thereof, reached a conclusion that the said document contained three columns, that only reflected that 36999 bags were shifted; weight of the bags, i.e. 233343.18 quintals; and transportation charges of Rs.5,36,893/-. However, nothing was brought on record to show as to what was the basis to shift the paddy from the respondent-miller and where precisely it was taken and through which agency. No evidence was led to show that any notice was ever issued to the respondent-miller before the stocks were shifted. Likewise, nothing was brought on record to indicate the precise amount that was paid to the transporter. Accordingly, it was concluded that since the appellants failed to show that it was owing to the fault of the respondent-miller, the stocks were shifted, the respondent-miller could not be held liable to defray the transport charges. Particularly,

was required to deliver the resultant rice, had not yet matured. Still further, the claim of the appellants was held to be erroneous in terms of the letter dated 05.02.1996, issued by the Director, Food and Supplies, Punjab, Chandigarh, vide which it was clarified that the transportation charges for shifting the paddy during the crop-year 1995-96 were to be claimed from the Central Government, over and above the custom milled rates.

Ex facie, the appellant-Punsup failed to lead any cogent evidence to substantiate its claim. Thus, the only and the inevitable conclusion the arbitrator could reach, was to decline its claim as regards the transport charges. Needless to assert that under Section 34 of the Act, the Court does not sit in appeal against the arbitral award. And, the award rendered by the arbitrator could only be set aside upon the grounds specified under Section 34 of the Act. Whereas, on an analysis of the matter in issue, the District Judge, Ferozepur, concluded that the appellant-Punsup failed to show that the objections preferred by it were within the purview of the said provision. Learned counsel for the appellants too could not point out as to how the arbitral award as also the judgment rendered by the District Judge, Ferozepur, was either contrary to the record or suffer from any material illegality.

The appeal being devoid of merit, is accordingly dismissed.

(ARUN PALLI)
JUDGE

July 05, 2017

Pkapoor

Whether Speaking/Reasoned:

YES / NO

Whether Reportable:

YES / NO