

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

CWP No.17233 of 2014  
Date of decision : 15.05.2017

Jaswinder Singh and others

...Petitioners

Versus

State of Punjab and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.**

Present: Mr. Pawan Kumar, Sr. Advocate with  
Mr. Abhimanyu Batra, Advocate for the petitioners.

Mr. Yatinder Sharma, Addl. A.G. Punjab.

Ms. Deepali Puri, Advocate for respondent Nos.4 and 6.

Mr. Aalok Jagga, Advocate for respondent No.10.

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**AMIT RAWAL, J. (Oral)**

Mr. Pawan Kumar, Sr. Advocate assisted by Mr. Abhimanyu Batra, Advocate for the petitioners has confined his prayer to the Annexure P-3 though there are multifold prayer in the writ petition and contend that letter dated 21.07.2014 (Annexure P-3) issued by District Manager, Pungrain Patiala, whereby residential house of the petitioner has been attached by causing an entry in the revenue record which tantamounts to the attachment of the property.

He submits that he alongwith respondent No.10 on 14.08.2013 had purchased the sheller under the name and style of M/s Pratham

Rice Mills having 25% share and respondent No.10 having 75% share. The respondent No.10 as sole proprietor of the aforementioned Sheller had entered into an agreement vide Annexure P-4. There was some default in respect to the outstanding dues that the impugned letter was passed on 21.07.2014 (Annexure P-3) and the arbitration award was passed only on 22.06.2016, wherein in the petitioner has been held to be having a 25% share and the liability amount has also been held to the same extent but the said award is executable in case the petitioner do not succeed in the objections filed under Section 34 of the Act. The factum of the aforementioned award and the impugned letter have not been denied by respondent No.10 represented by Mr. Aalok Jagga, Advocate.

Ms. Deepali Puri, Advocate for respondent Nos.4 and 6 submits that respondent Nos.4 and 6 has no role to play in it.

Mr. Yatinder Sharma, Addl. A.G. Punjab submits that the order was passed as an precautionary measures, so that the Pungrain is entitled to recover the amount and any anticipation of the passing of the award is in their favour. This is kind of an purported action under Order 38 Rule 5 of the Code of Civil Procedure.

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

It would be apt to reproduce the contents of letter dated 21.07.2014 (Annexure P-3), which reads thus:-

*“From  
District Manager,  
PUNGRAIN,  
Patiala*

*To*

*District Collector,  
Patiala*

*Memo No.AD/7/201/6760 Dated 21.07.14*

*Subject: Regarding making entry in the revenue record of property of owner of M/s First Agro Foods, Lalochi, Tehsil Samana.*

*On the above referred subject*

*In this regard, it is submitted that during session 2013-14 after purchasing the paddy for milling it was allotted to PUNGRAIN Agency, in which Pungrain Agency made the paddy stock of total 46500 Bags weighting 16275 Quintal Paddy. Out of which the Mill owner has to deliver 67% i.e. 10904-25 quintal Rice out of account of Pungrain to FCI. Against the said delivery of Rice the Mill owner has delivered only 7541-40 quintal Rice out of Pungrain account to FCI and 3363-15 quintal Rice is yet to be received.*

*According of physical verification by the Food and Supply Officer Samana and Assistant Food and Supply Officer Samana and Inspector Food and Supply Samana no balance Rice i.e. 3363-15 quintal is available in the Sheller of Pungrain Agency and the Mill owners has embezzled the remaining Rice and the Mill owner has also refused to make signatures on the physical verification. Accordingly, the embezzlement done by the Mill owners which comes to Rs.82,57,307-00 + 4,12,865, alongwith Vat 86,70,172.00.*

*Therefore keeping in view the interest of the Pungrain the recovery of the amount of Custom Milling Rice will be made from the property of Sh. Jaswinder Singh son of Bhagwan Singh, resident of Sidhu Colony, Bhadso which is entered in the Hadbast No.142, Tehsil Bhadso, in Khewat No.19/17, Khatoni No.41 jamabandi for the year*

*2009-10, and it is requested to entered in the revenue record of favour of District Manager, Pungrain, Patiala.*

*Sd/-  
District Manager  
Pungrain, Patiala.”*

Concededly, the arbitration award is dated 22.06.2016 in which the petitioner has been held to be liable to the extent of 25% share. The objections under Section 34 are pending adjudication.

In case petitioner is not successful, PUNGRAIN shall be at liberty to seek the execution of the award, but causing an entry in the revenue record, as noticed above, is not correct one. It being not the procedure initiated under Land Revenue Act. That domain is of the Tehsildar, thus, order (Annexure P-3) in my view is not sustainable. Rider would be repugnant and also an Act of aberration.

Resultantly, same is set aside. Writ petition is allowed to the extent of the observations made hereinabove.

Mr. Aalok Jagga, Advocate for respondent No.10 has informed the Court that residential house is mortgaged with the Canara Bank.

Canara Bank is at liberty to seek attachment of the property at appropriate forum and by availing appropriate remedy.

**15.05.2017**

*Pawan*

**(AMIT RAWAL)  
JUDGE**

**Whether speaking/reasoned:-**

**Yes/No**

**Whether reportable:-**

**Yes/No**