

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

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FAO No.2647 of 2013(O & M)

Date of Decision:27.03.2017

The Punjab State Civil Supplies Corporation Limited, Chandigarh and anr.

....appellants

Versus

M/s Krishna Rice Mills, Sulargharat, District Sangrur and others

.....respondents

CORAM: HON'BLE MR.JUSTICE ARUN PALLI

Present: Ms.Deepali Puri, Advocate
for the appellants

Mr.Ishan Gupta, Advocate
for respondent No.2

ARUN PALLI, J. (ORAL):

Vide arbitral award dated 26.11.2007, the arbitral Tribunal, partially granted the claim of the appellants by awarding ₹ 61,898/- with 15% interest per annum w.e.f.01.07.1995. Aggrieved by the said award, the appellants filed objections under Section 34 of the Arbitration and Conciliation Act, 1996 (for short, 'the Act'). But, as these objections were dismissed vide impugned judgement, dated 18.12.2012 rendered by the District Judge, Chandigarh, the appellants are in appeal before this Court.

A contract agreement dated 29.10.1994 was entered into between the parties for custom milling of paddy for the crop year 1994-95. As per the terms of the agreement, the miller was bound to supply the entire quantity of the rice to the appellants within a specified time. The appellants

purport to have supplied paddy of fine variety for custom milling and the respondent was required to deliver the rice upto 30.06.1995 (extended period). But, as the respondents failed to adhere to the time schedule and did not even lift the paddy from the specified zones, there was no occasion for it to have delivered the resultant rice by the stipulated time. Initially, the appellants had claimed a sum of ₹ 60,80,219.93/- but later a revised claim for ₹ 6,52,213/- was finalised on 25.04.2003.

On a consideration of the matter in issue and the evidence on record, the arbitrator reached a conclusion that out of the total 45,245 bags of paddy stored by the claimants with the respondents for milling, 29113 bags were indeed milled by the respondents and the proportionate quantity of rice was delivered to the claimants-appellants. Statement C-2 showed that the balance 16132 bags were sold to the respondents under the sale policy. In the first lot, 9332 bags were sold and, thereafter, the remaining paddy to the extent of 6800 bags were also sold to the respondents at the reduced rate in terms of the policy instructions dated 22.08.1995. The position set out above was confirmed, for, it was so conceded in the cross examination by Sh. Harblas Garg, Senior Assistant, PUNSUP, Sangrur. Thus, the arbitrator concluded that the figures showing shortage of conversion of paddy into rice were manipulated. Not just that, in the cross examination, this witness further conceded that no such shortage or unauthorised conversion of paddy into rice was reflected in the claim petition filed by the appellants. So much so, he also confirmed that there indeed was no shortage of paddy into rice, as the entire balance quantity of paddy was sold in the second lot, for, the same was physically available at site. Hence, the

amount of ₹ 5,40,507/- claimed on account of shortage of paddy and conversion of paddy into rice was not payable by the respondents. So was the position as regards the cost of empty bags, to the extent of ₹ 51,588/-, which too was not payable by the respondents. As a result, the appellants were only found entitled to ₹ 61,898/- as on 30.06.1995, with 15% simple interest per annum w.e.f.01.07.1995. Even the learned District Judge, Chandigarh, on a consideration of the matter, reached a conclusion that Sh. Harblas Garg, Senior Assistant, PUNSUP, Sangrur, had conceded in his cross examination that there was hardly any un-authorized conversion or shortage of paddy. Besides that, the account statement Ex.C-13, further proved that there was no such shortage. Accordingly, it was observed that the appellants failed to make out any case, in terms of Section 34 of the Act, to set aside the arbitral award.

Learned counsel for the appellants could not point out as to how the conclusion arrived at by the District Judge, was either contrary to the record or suffered from any material illegality. That being so, the only and the inevitable conclusion one could reach is that the appeal is wholly devoid of merits.

The appeal is accordingly dismissed.

March 27, 2017

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(ARUN PALLI)
JUDGE

Whether speaking/reasoned

Yes/No.

Whether reportable-

Yes/No