

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

FAO No.1701 of 2014(O&M)
Date of decision: 03.05.2017

Punjab State Civil Supplies Corp. Ltd. and another

... Appellants

Versus

M/s Ram Chand and Company and another

... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Nitin Kaushal, Advocate for the appellants.
Mr. Ravish Bansal, Advocate for respondent No.1.

ARUN PALLI, J. (Oral)

This is an appeal against the judgment dated 04.03.2013, rendered by the Additional District Judge, Chandigarh, vide which the objections filed by the appellants under Section 34 of the Arbitration and Conciliation Act, 1996 (for short, 'the Act') were dismissed.

Respondent No.1 was assigned paddy for custom milling for the crop year 1994-95. Concededly, the respondent failed to deliver the requisite quantity of milled rice. As a result, the appellants invoked the Arbitration clause. Vide arbitral award dated 28.02.2007, the Arbitrator partially accepted the claim of the appellants and awarded a sum of ₹ 3,23,956/-. Being aggrieved by the arbitral award, the appellants preferred objections under Section 34 of the Act. Indisputably, the respondent-miller never questioned the award rendered by the Arbitrator. And, vide impugned judgment dated 04.03.2013, the learned Additional District Judge set aside the arbitral award, for in his view the dispute between the parties was

squarely covered within the excepted clause of the contract and, thus, only the Managing Director of the Corporation had the jurisdiction to decide the matter.

Learned counsel for the parties are *ad idem* that the issue in the matter in hand is of short supply of milled rice and thus was not covered within the excepted clause. Meaning thereby, it was required to be adjudicated only by way of arbitration proceedings, and the Managing Director had no authority to resolve such a dispute. That being so, the only and the inevitable conclusion one could reach is that the impugned judgment dated 04.03.2013 is unsustainable and the matter needs to be remitted for re-decision.

In conspectus of the above, the impugned judgment dated 04.03.2013 is set aside. The matter is remanded to the District Judge, Chandigarh for deciding the objections preferred by the appellants afresh and in accordance with law. Needless to assert, it would be the discretion of the District Judge to either decide the matter himself or to assign to any other court of competent jurisdiction.

Parties through their respective counsel are directed to appear before the District Judge, Chandigarh on 22.05.2017.

In the wake of the fact that the dispute pertains to the year 1994-95, the Court that shall be assigned the matter is requested to decide the same within a period of three months from 22.05.2017.

Disposed of in the above terms.

May 3, 2017
Rajan

(Arun Palli)
Judge

Whether speaking / reasoned:
Whether Reportable:

YES/NO
YES/NO