

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

**FAO No.3368 of 2015 (O&M)
Date of Decision : 08.05.2017.**

M/s Rukumani Rice Mills and others

.....Appellants

Versus

Punjab State Civil Supplies, Corporation Limited and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE ARUN PALLI

Present : Ms. Seema Arora, Advocate for
Mr. C.M.Munjhal, Advocate for the appellants.

ARUN PALLI, J. (Oral)

The objectors are in appeal against the judgment dated 19.12.2014, rendered by the Additional District Judge, Sri Muktsar Sahib, vide which their objections under Section 34 of the Arbitration and Conciliation Act, 1996 (for short 'the Act') against the arbitral award dated 8.5.2001 were dismissed. The appellants was assigned a contract by the respondents-claimants for milling paddy for the crop year 1996-97. The appellants firm was supplied 45,370 quintals of fine variety of paddy and 69,800 gunny bags. In terms of the agreement the appellants was required to supply 30,075-27-000 quintals of rice out of the total paddy weighing 44,706-47-000 quintals. But, as the appellants delivered only 31,443, gunny bags and 29,790-07-000 quintals of rice up to 31.05.1997, the balance quantity of 285-20-000 quintals of rice and 38,357 gunny bags remained due from the appellants. Thus, the case set out by the respondents before the arbitrator was that a sum of ₹3,29,733/- were recoverable from

the appellants firm as on 01.01.2000. Record show that the appellants were served not only by way of ordinary process but even through registered post. But it did not chose to participate in the arbitration proceedings and were thus proceeded against ex parte vide order dated 22.11.2000. Respondents examined Sh. Abnash Kumar, Sr. Assistant (Accounts) who fully substantiated the claim of the respondents in his testimony. Naturally no evidence was led by the appellants in rebuttal. And the evidence led by the respondents-claimants remain un-challenged. Accordingly, the Arbitrator vide arbitral award, dated 8.5.2001, accepted the claim of the respondents and awarded a sum of ₹3,29,733/- along with interest @ 21%. What needs to be noticed is that the arbitral award was rendered on 8.5.2001 whereas the objection thereto, under Section 34 of the Act were filed on 05.05.2010, that is after 9 years of the passing of the award. Thus, in terms of the provision of Section 34(3) of the Act, the objections filed by the appellants were grossly barred by time. Further, the learned Additional District Judge also observed that the millers such as appellants are consistently dealing with the respondents-department for taking paddy for the purpose of milling, and thus, it was wholly incredible that they were unaware of the appointment of the Arbitrator. Even otherwise, the agreement between the parties, dated 04.10.1996, was concededly entered into and clause 22 thereof envisaged for appointment of Arbitrator. Thus, the plea of the appellants that the Arbitrator did not have the jurisdiction to arbitrate upon the dispute was wholly mis-conceived.

That beings so, the only and the inevitable conclusion the

learned Additional District Judge could reach was; that the objections preferred by the appellants were wholly mis-conceived, and thus, liable to be dismissed. Learned counsel for the appellants, despite being pointedly asked, could not show as to how the award rendered by the Arbitrator as also the impugned judgment dated 19.12.2014 was either contrary to the record or suffered from any material illegality. Therefore, the appeal being devoid of merit accordingly, dismissed.

08.05.2017

*neenu/Manoj Bhutani***(ARUN PALLI)
JUDGE**

Whether speaking/reasoned
Whether reportable:

Yes/No
Yes/No