

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
Writ Appeal No. 504 of 2017

M/s Shri Maruti Rice Mill Through Proprietor Smt. Poonam Agrawal, W/o Gopal Agrawal, Aged About 36 Years, R/o Village And P. O. Dhurkot, P. S. And Tahsil Dabhra, District Janjgir- Champa, Chhattisgarh.

---- Appellant

Versus

1. State Of Chhattisgarh Through Secretary, Department Of Cooperatives, Ministry, Mahanadi Bhawan, P. S. Rakhi, Naya Raipur, District Raipur, Chhattisgarh.
2. Chhattisgarh Rajya Sahakari Vipnan Sangh Maryadit, Janjgir, Through Its District Marketing Officer, Janjgir, District Janjgir- Champa, Chhattisgarh.

---- Respondents

For Appellant	: Shri Surfaraj Khan, Advocate.
For Respondent/State	: Shri Prasun Bhaduri, Government Advocate.
For Respondent No.2	: Shri Prafull N. Bharat, Advocate.

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice
Hon'ble Shri Parth Prateem Sahu, Judge

Judgment on Board

11/12/2018

Per Ajay Kumar Tripathi, Chief Justice

1. I.A. No.01 of 2017 has been filed to condone delay of six days in instituting the appeal. For the reasons indicated in the application, the same is allowed. Delay of six days is hereby condoned.
2. Heard counsel for the parties on the merits.
3. Since the writ application of the Appellant was dismissed by the learned Single Judge dated 15.09.2017, the present appeal has been preferred.
4. For non-delivery of custom milled rice, a bank guarantee amounting to Rs.45 Lacs issued in favour of the Respondents was ordered to be attached and paid,. En-cashing the bank guarantee of Rs.45 Lacs became the cause of action for the Appellant to move the High Court under Article 226 of the Constitution of India.

5. In the writ application, it is claimed that even if the assertion of the Appellant is accepted on the basis of certain documents that the obligation to deposit or pay the cost of custom milled rice amounts to Rs.32 Lacs, the balance amount of Rs.13 Lacs ought to be returned by the Respondents as the bank guarantee all told added up Rs.45 Lacs.
6. The learned Single Judge refused to pass any order on the ground that these are civil disputes and cannot be gone into under Article 226 of the Constitution of India.
7. The irrespective of what the learned Single Judge has said, we give leeway to the Appellant to approach the Respondents, work out the accounting and it goes without saying that if there are any pluses in favour of the Appellant, then appropriate reconciliation may be required to be made or else the Appellant may take appropriate remedy against the Respondents, which is available to him in terms of the contract.
8. The writ is otherwise disposed off with a leeway/liberty granted as above.

Sd/-

(Ajay Kumar Tripathi)
CHIEF JUSTICE

Sd/-

(Parth Prateem Sahu)
JUDGE