

CR No. 1062 of 2017

Date of Decision: 02.11.2018

M/s Surjit Rice Mills, Dera Baba Nanak, District Gurdaspur through its proprietor Ashish Saily

.....Petitioner

Versus

Punjab State Civil Supplies Corporation Ltd. Foodgrain Corporation Ltd.
through its Managing Director and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Dheeraj Mahajan, Advocate
for the petitioner.

Mr. A.D.S. Jattana, Advocate
for respondent Nos.1 and 2.

DEEPAK SIBAL, J. (ORAL)

The present petition is directed against the order dated 30.01.2017, passed by the Additional District Judge, Gurdaspur (for short, the Trial Court), through which an application filed by the petitioner under Sections 12, 13, 14 and 15 of the Arbitration and Conciliation Act, 1996 (for short, the Act) has been dismissed after holding the same to be not maintainable.

Through an agreement dated 27.09.2008 the petitioner was granted rights to mill paddy on behalf of respondent No.1 for the year 2008-2009. During the course of such milling of paddy, disputes arose between the parties, leading to the appointment of an Arbitrator namely Mr. R.K. Gupta, who on 23.08.2011 passed an order directing respondent No.1 to dispose of the paddy/rice lying in the mill premises of the petitioner. Against such order, the petitioner filed an appeal before the Trial Court under Section 37 of the Act. Awaiting the final order of the Trial Court, the

Arbitrator adjourned the arbitration proceedings sine die. The petitioner's aforesaid appeal was dismissed by the Trial Court on 04.02.2016. The petitioner challenged the afore mentioned order dated 04.02.2016 before this Court through a revision petition being CR-2053-2016 – "M/s Surjit Rice Mills, Dera Baba Nanak, District Gurdaspur Vs. Punjab Agro Foodgrain Corporation Limited, Chandigarh and others" which was disposed of with liberty to the petitioner to raise all issues raised in that petition before the Arbitrator. Thereafter, proceedings continued before the Arbitrator but alleging bias against the Arbitrator, the petitioner filed a petition before this Court being ARB-181-2016 – "M/s Surjit Rice Mills Vs. Punjab State Civil Supplies Corporation Ltd. Chandigarh and others" under Section 11 of the Act seeking therein appointment of a new Arbitrator. While such petition was pending, Mr. R.K. Gupta, Arbitrator withdrew from the arbitration on account of his ill health. In his place respondent No.3-Mr. Kanwar Gulwant was appointed as a new Arbitrator. In view of aforesaid subsequent event, on 16.12.2016 the petitioner withdrew the aforesaid petition filed by him before this Court under Section 11 of the Act with liberty to adopt appropriate proceedings but not under Section 11 of the Act. Thereafter, the arbitration proceedings were conducted by respondent No.3. The petitioner being aggrieved by the working/conduct and appointment of respondent No.3, sought his removal through a petition filed by him before the Trial Court under Sections 12, 13, 14 and 15 of the Act. The Trial Court held such petition to be not maintainable through the order which is the subject matter of challenge in the present proceedings.

Today, when the matter came up for hearing, learned counsel for the parties informed the Court that during the pendency of the present petition, on 04.05.2018, a new Arbitrator namely Mr. Arvinder Singh has been appointed and therefore, since the grievance raised by the petitioner in

the present proceedings is against the appointment of respondent No.3 as the Arbitrator, the present petition in the light of the afore subsequent fact, has been rendered infructuous.

In the light of the above subsequent fact, learned counsel for the petitioner seeks to withdraw the present petition with liberty to file appropriate proceedings which may be available to him in accordance with law either before the Arbitrator or before the Trial Court.

Permitted to do so.

Dismissed as withdrawn.

(DEEPAK SIBAL)
JUDGE

02.11.2018
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No