

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 118

CR-5219-2018

Date of decision : 14.08.2018

M/s Gill Rice Mill, Batala

..... Petitioner

VERSUS

Punjab State Grain Procurement
Corporation Ltd. and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Sanjay Kaushal, Senior Advocate, with
Mr. Arjun Shukla, Advocate, for the petitioner.

DEEPAK SIBAL, J. (ORAL)

Through the present petition filed under Article 227 of the Constitution of India, challenge is made to the order dated 12.06.2018, passed by the Arbitrator, through which the application filed by the petitioner for dropping the proceedings pending before the Arbitrator has been dismissed.

The facts in brief which need to be noticed for adjudicating upon the present petition are that as per the arbitration clause contained in agreement arrived at between the petitioner and the respondents the dispute that had arisen between them was referred to an Arbitrator. While the dispute was pending before the Arbitrator, one Rakesh Bhasker, who was the District Food and Supplies Controller-cum-District Manager, PUNGRAIN appeared in a civil suit titled as “Rajinder Singh vs. Amarjit Singh” and allegedly stated that agreement dated 26.11.2012 which formed the basis of the dispute between the parties had not been signed by him. He further denied appending his signatures upon some other documents on the basis of which respondent No. 1 had raised its claim which was pending before the

Arbitrator. Armed with a copy of the statement of the aforesaid Rakesh Bhasker, the petitioner filed an application before the Arbitrator with a prayer that in view of his statement the proceedings before the Arbitrator should be dropped. After considering the pleas raised on behalf of the petitioner, the Arbitrator dismissed the application, giving a cause to the petitioner to file the present petition before this Court.

Mr. Sanjay Kaushal, Senior Advocate, appearing on behalf of the petitioner assails the order impugned in the present petition by submitting that once the signatory to the agreement which formed the basis of the dispute referred for arbitration had denied his signatures on the agreement itself, there was no reason for the Arbitrator to proceed any further with the dispute referred to him.

The afore submission made by learned counsel for the petitioner has been considered but no merit in the same is found.

Once the Arbitrator had been appointed and was proceeding with the matter, no provision under the Arbitration and Conciliation Act, 1996 has been brought to my notice under which the aforesaid application had been preferred by the petitioner.

Even otherwise, simply because a witness has made a statement in some other proceedings which would support the petitioner's case the same cannot be made the basis for dropping the entire proceedings as it is for the adjudicatory authority to accept the worthiness of such statement and then to reach a conclusion whether to accept or reject it.

It is not disputed that Rakesh Bhasker is not the only witness of respondent No. 1 and that there is no other evidence which they have led or

are wanted to lead in the future. That being so, only after the entire evidence comes on record, the adjudicatory authority is expected to consider the same and then arrive at a decision. Thus, the application filed by the petitioner before the Arbitrator was clearly premature and the dismissal of the same on that count warrants no interference especially in view of the specific observations made by the Arbitrator in the order impugned in the present petition that even on previous occasions similar applications had been filed by the petitioner which had been dismissed and that such applications, one after the other, were being filed by the petitioner only to delay the final decision in the matter.

In view of the above, no merit is found in the present petition and accordingly, the same is dismissed.

14.08.2018
shamsher

[DEEPAK SIBAL]
JUDGE

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