

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

**CR No. 6653-2017 (O&M)
Date of decision : 15.01.2018**

M/s Shree Krishna Rice and General Mills and others Petitioners

Versus

Punjab State Civil Supplies Corp. Ltd and others Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. P.K.Kataria, Advocate for the petitioners.
 Mr. Sumit Jain, Advocate for respondents.

1. *Whether the Reporters of local newspaper may be allowed to see the judgment ?*
2. *To be referred to the Reporter or not.*
3. *Whether the judgment should be reported in the digest ?*

KULDIP SINGH J. (ORAL)

Impugned in the present revision petition is the order dated 27.7.2017 (Annexure P-1) passed by learned Civil Judge (Senior Division), Ludhiana, in which in a suit for recovery, the prayer of the petitioners-defendants for rejection of the plaint on the ground that it is time barred and regarding maintainability was declined.

Heard.

Learned counsel for the petitioners-defendants has argued that in this case earlier matter was referred for arbitration. After the passing of the Arbitration Award dated 28.06.2001, the objections under Section 34 of the Arbitration and Conciliation Act, 1996 was filed before the District Courts, Ludhiana which set aside the Award and granted liberty to the Administrator to pass the Administrative order. Now the Administrative

order was passed on 20.1.2014 and thereafter the civil suit was filed on 22.9.2014. It is stated that in the petition, interest has been claimed from the year 1996, therefore, cause of action will arise in the year 1996.

On the other hand, learned counsel for respondents-plaintiffs has argued that it is a mixed question of fact and law. The matter was previously pending before the arbitrator and ultimately civil Court decided that the matter should be decided by the Administrator. The cause of action will arise after the Managing Director passed the order.

I am of the view that question regarding limitation and is a mixed question of fact and law and is required to be decided after both the parties lead the evidence on merits as well as on this issue. Regarding the maintainability also, since the suit is for recovery, the maintainability will depend upon the findings on the other issues. Therefore, it is also to be decided along with the main case. In any case, there is no ground to reject the plaint.

In the circumstances, present revision petition is dismissed with the direction to the trial Court to frame specific issues on the points raised by petitioners- defendants and decide it along with the main case.

Dismissed as above.

(KULDIP SINGH)
JUDGE

15.01.2018
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Whether speaking / reasoned
Whether Reportable:

Yes
No