

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

1. CR No.7565 of 2016
Date of decision : 15.01.2018

Punjab State Civil Supplies Corporation Limited ...Petitioner

Versus

Punjab Rice Sheller ...Respondent

2. CR No.7842 of 2016
Date of decision : 15.01.2018

Punjab State Civil Supplies Corporation Limited and another ...Petitioners

Versus

M/s Krishan Rice Mills and others ...Respondents

3. CR No.1823 of 2017
Date of decision : 15.01.2018

Punjab State Civil Supplies Corporation Limited ...Petitioner

Versus

Laxmi Rice Mills/Traders and others ...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. S.S. Brar, Advocate for the petitioner
(In CR Nos.7565 of 2016 and 1823 of 2017)

Mr. Athar Ahmed, Advocate for the petitioner
(In CR No.7842 of 2016)

Mr. Jatinder Singla, Advocate for respondent Nos.1 and 4.
(In CR No.1823 of 2017)

Mr. Ishan Gupta, Advocate for respondent No.3
(In CR No.7842 of 2016)

ANIL KSHETARPAL, J. (ORAL)

By this order, CR Nos..7565 & 7842 of 2016 and CR No.1823 of 2017 are being disposed of as common issue needs determination.

Punjab State Civil Supplies Corporation Limited has filed these revision petitions against the orders passed by the Executing Court reducing the rate of interest from the rate of interest awarded by the learned Arbitration and affirmed/approved by the Court.

Learned counsel for the petitioner has vehemently argued that the Executing Court does not have any jurisdiction to change the rate of interest, which has been granted by the Arbitrator affirmed upto the High Court.

Operative part of the award reads as under:-

“As per revised claim filed by the Corporation, however, an amount of Rs.93,573.80 is shown as recoverable from the party and Rs.15,141.62 is payable to the party as above. Hence after balancing this entry I give an award of Rs.78,432.38 in favour of the claimant Corporation with interest at bank rate then prevailing from time to time from the date of filing of claim i.e. 2.7.98 awards till the realization.”

The objections under Section 34 of the Arbitration and Conciliation Act, 1996 were dismissed. The first appeal was also dismissed. In some cases, the objections were allowed. However, in first appeal, the judgment of the Additional District Judge was restored. The net conclusion is that the arbitration award has become final between the parties.

The power of the Court even while deciding the objections

under Section 34 is limited and circumscribed by the provisions of the Act. This Court has a serious doubt that the Court while exercising the powers under Section 34 of the Act can normally interfere in the rate of interest awarded by the Arbitrator. As per Sub-Section 7 of Section 31, Arbitral Tribunal has power to award the interest at such rate as it deems reasonable. In the present case, the Arbitrator had awarded the interest at bank rate than prevailing at the time of the filing of the claim petition.

In the considered opinion of this Court, the Executing Court does not have jurisdiction to interfere with the rate of interest which had been awarded by the Arbitrator. The award passed by the Arbitrator is equivalent to a decree passed by the Court. The Executing Court is to execute the decree as such. The Executing Court cannot tinker/change with the rate of interest awarded in the decree. In the present case, the Executing Court has reduced the rate of interest. In these circumstances, the order passed by the Executing Court cannot be sustained.

Counsel for the respondent(s) has submitted that while accepting the payment tendered, the counsel for the Corporation did not raise objections.

I have considered the submission. In this case, the payment which has been tendered would be treated as a part payment under the decree. Rule of Estoppel cannot be invoked against the counsel for the Corporation for accepting part payment.

In view of the above, all the revision petitions are allowed. The impugned orders passed by the Executing Court are set aside.

The Executing Court is directed to proceed with the execution
in accordance with law.

15.01.2018

Pawan

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned:- **Yes/No**

Whether reportable:- **Yes/No**