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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 7578 of 2012 (O/M)
Date of decision : 18.5.2018

M/s Shree Ram Rice Mills

..... Petitioner

Versus

The Punjab State Cooperative Supplies and Marketing Federation Limited
and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Santosh Sharma, Advocate, for,
Mr. Aman Bansal, Advocate,
for petitioner.

Mr. A.P.S. Mann, Advocate,
for respondent No. 1.

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 ?

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KULDIP SINGH J. (ORAL)

Heard.

Vide order dated 24.12.2008 (Annexure-P-6), learned District Judge, Sangrur, in a case while adjudicating upon application filed under Section 34 of Arbitration and Conciliation Act, 1996, against award dated 28.6.2004, passed by Arbitrator Shri N.S. Saini, learned Additional District and Sessions Judge (Retd.), while observing that claim filed by Markfed has nothing to do with claim of miller qua paddy sold in open sale policy, took a view that Arbitrator failed to pronounce the award on the

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ground that same could not be determined under the original agreement.

Therefore, following order was passed :-

'27. In view of aforesaid discussion, it would appear that the rights and liabilities of the parties have got to be settled in light of agreement dated 10.10.1994 which has not been brought to an end by the parties and therefore, the request made by petitioner so as to direct the Arbitrator to resume the proceedings and to determine the rights and liabilities of the parties qua the claim made by the Markfed vide the claim petition filed before it in the light of reply filed thereto as required under Section 34 (4) of the Act, has got to be accepted. Accordingly, the proceedings are adjourned to 17.8.2009. Copy of order be sent to the Arbitrator to do the needful in the light of this order. The parties shall appear before the Arbitrator on 30.1.2009. The Arbitrator shall submit his findings/report/award within a period of six months of the appearance of the parties before him.'

The said order has become final. Later on, Markfed filed an application before the learned District Judge, Sangrur, for permission to substitute Arbitrator on the ground that Shri N.S. Saini has refused to act as Arbitrator on the ground that he is quite busy in post retirement multifarious activities and he has no time to attend these matters which was dismissed, vide impugned order dated 5.11.2012 (Annexure-P-10). This Court, vide order dated 16.1.2018, issued notice to Shri N.S. Saini, learned Additional District and Sessions Judge (Retd.) to respond whether he is willing to act as Arbitrator or not ?

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In view of willingness of Shri N.S. Saini, learned Additional District and Sessions Judge (Retd.) to act as Arbitrator, impugned order dated 5.11.2012, permitting to appoint new Arbitrator, is set aside. Shri N.S. Saini, learned Additional District and Sessions Judge (Retd.), is directed to resume the arbitration proceedings of the case and submit his findings/report/award, in terms of order dated 24.12.2008, passed by learned District Judge, Sangrur. The fee of Arbitrator for resumed hearing Rs. 35,000/-, be paid in terms of 'The Chandigarh Arbitration Centre (CAC) (Administrative Cost and Arbitrators' Fees) Rules, 2014, to be shared equally by both parties. Consequently, revision is allowed.

(KULDIP SINGH)
JUDGE

18.5.2018
sjks

Whether speaking / reasoned : Yes / No

Whether Reportable : Yes / No