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

Date of Decision: 10.05.2018

1. Civil Revision No. 8522 of 2016

**The Pb. State Co-operative Supply & Marketing Federation Limited
.....Petitioner**

Versus

M/s D.D.Rice Mills and another Respondents

2. Civil Revision No. 80 of 2017

**The Pb. State Co-operative Supply & Marketing Federation Limited
.....Petitioner**

Versus

M/s R.K. & Sons Rice Mills and another Respondents

3. Civil Revision No. 106 of 2017

**The Pb. State Co-operative Supply & Marketing Federation Limited
.....Petitioner**

Versus

M/s Bansal Sons and others Respondents

4. Civil Revision No. 107 of 2017

**The Pb. State Co-operative Supply & Marketing Federation Limited
.....Petitioner**

Versus

M/s Deep Trading Company and another Respondents

5. Civil Revision No. 108 of 2017

**The Pb. State Co-operative Supply & Marketing Federation Limited
.....Petitioner**

Versus

M/s National Rice & General Mills & another Respondents

6. Civil Revision No. 109 of 2017

**The Pb. State Co-operative Supply & Marketing Federation Limited
.....Petitioner**

Versus

M/s Shri Ram Enterprises and others Respondents

7. Civil Revision No. 110 of 2017

**The Pb. State Co-operative Supply & Marketing Federation Limited
.....Petitioner**

Versus

M/s Garg Rice & General Mills and others Respondents

8. Civil Revision No. 193 of 2017

**The Pb. State Co-operative Supply & Marketing Federation Limited
.....Petitioner**

Versus

M/s H.M. Traders and another Respondents

9. Civil Revision No. 194 of 2017

**The Pb. State Co-operative Supply & Marketing Federation Limited
....Petitioner**

Versus

M/s H.R.Rice Mills and another Respondents

10. Civil Revision No. 195 of 2017

**The Pb. State Co-operative Supply & Marketing Federation Limited
.....Petitioner**

Versus

M/s Kapil Kumar & Company and another Respondents

11. Civil Revision No. 196 of 2017

**The Pb. State Co-operative Supply & Marketing Federation Limited
.....Petitioner**

Versus

**M/s Amin Chand Madan Lal and others
..... Respondents**

12. Civil Revision No. 197 of 2017

**The Pb. State Co-operative Supply & Marketing Federation Limited
.....Petitioner**

Versus

**M/s Singla Enterprises and others
..... Respondents**

13. Civil Revision No. 198 of 2017

**The Pb. State Co-operative Supply & Marketing Federation Limited
.....Petitioner**

Versus

**M/s Balaji Trading Company and others
..... Respondents**

14. Civil Revision No. 199 of 2017

**The Pb. State Co-operative Supply & Marketing Federation Limited
.....Petitioner**

Versus

**M/s Luxmi Enterprises Moga and others
..... Respondents**

15. Civil Revision No. 200 of 2017

**The Pb. State Co-operative Supply & Marketing Federation Limited
.....Petitioner**

Versus

**M/s Kailash Industries and others
..... Respondents**

16. Civil Revision No. 201 of 2017

The Pb. State Co-operative Supply & Marketing Federation Limited

.....Petitioner

Versus

M/s Ashoka Oil Mills and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr.Naresh Gopal Sharma, Advocate
for Mr. Mehardeep Singh, Advocate
for the petitioner(s).

Mr. Amandeep Saini, Advocate
for Mr. N.S.Dandiwal, Advocate
for respondent No. 2 in CR-8522-2016.

Mr. Parveen K. Kataria, Advocate
for the respondents in CR-106, 107, 195 & 200-2017.
for respondents No. 1 a, b & c in CR-199-2017.

Mr. S.K.Singla, Advocate
for respondent No. 1 and 2 in CR-108-2017.
for respondent No. 1 (b) in CR-109-2017.
for respondent No. 1 (a) & (d) in CR-110-2017.
for respondent No. 1 (i) (iii) in CR-193-2017.
for respondent No. 1 in CR-80-2017.

RAJ MOHAN SINGH, J. (Oral)

Vide this common order, CR No. 8522 of 2016, CR Nos. 80, 106, 107, 108, 109, 110, 193, 194, 195,196, 197, 198, 199, 200 & 201 of 2017, are being disposed of.

The facts are being taken from Civil Revision 8522 of 2016.

The petitioner has assailed the order dated 06.08.2016 passed by Additional Civil Judge (SD) Moga whereby the application under Order

6 Rule 17 read with Section 151 CPC for amendment of the plaint was dismissed.

The defendant is running the business in the name and style of M/s D.D. Rice Mills. In the year 1994-95, the plaintiff/petitioner procured paddy at the support price being procurement agency of the State Government for custom milling. Milled rice was to be given to Food Corporation of India in Central Pool. The paddy was allotted to the defendant-Rice Mill for custom milling under an agreement dated 28.09.1994 which was executed between the plaintiff through its District Manager, Markfed and the defendant-firm. There was a dispute with regard to the milling, payment and delivery of paddy in respect of the violation of terms and conditions of the agreement.

Arbitrator was appointed as per Clause 18 of the agreement. On 31.08.2004, Arbitrator gave Award in favour of the plaintiff/petitioner. Objections under Section 34 of the Arbitration & Conciliation Act were filed by respondent No. 1. Additional District Judge, Moga vide judgment dated 22.02.2007 decided the objections thereby setting aside the Award of Arbitrator. Liberty was given to the plaintiff/petitioner to seek any other remedy in accordance with law. The said order became final as the same was never assailed by the plaintiff/petitioner in any forum. In the year 2007 itself, the plaintiff/petitioner approached the Managing Director of the Corporation and the case was taken up by the Managing Director. The Managing Director, after the lapse of about four years, passed an office order dated 20.05.2011 thereby asking the plaintiff/petitioner to file a suit

for recovery against the respondent(s). Consequently, the civil suit for recovery along with interest at the rate of 21% per annum as per the terms and conditions of the contract dated 28.09.2004 was filed in the year 2011.

After framing of issues, when the case reached upto the stage of culmination of plaintiffs' evidence, the application under Order 6 Rule 17 read with Section 151 CPC came to be filed for amendment in para No. 9-A of the plaint wherein the plaintiff sought to avail the benefit of Section 14 of the Limitation Act in order to explain the delay in approaching the Civil Court. The proceedings pending before the Managing Director are sought to be projected as a ground to avail condonation of delay on the ground that the plaintiff was prosecuting the remedy in order to explain the delay in filing the suit.

A perusal of the plaint would show that the order dated 22.02.2007 has not been assailed nor the office of Managing Director has been pleaded to be a stage before the competent Court/authority in order to seek benefit of Section 14 of the Limitation Act. Managing Director of the plaintiff/petitioner has passed some order in the capacity of officials in hierarchy of the plaintiff/petitioner-Corporation and, therefore, he cannot be termed as a judicial authority as the act done by him was only in the official capacity for the betterment of his own organisation including the plaintiff/petitioner. The period spent before the Managing Director cannot be termed to be a bonafide prosecution of remedy under the law.

It is the settled principle of law that all the bonafide amendments are to be allowed. The amendment cannot be treated as bonafide. Order 6 Rule 17 CPC is in two parts. First part is discretionary and leave it to the Court to order amendment in the pleadings. Second part is imperative and enjoins the Court to allow all amendments which are necessary for determining real issues between the parties. The first condition for the amendment is that it should not be unjust and result in prejudice to the opposite party. The cumulative consideration of the facts on record shows that by way of proposed amendment, the cause is sought to be introduced which has no legs to stand. Order dated 22.02.2007 has not been challenged anywhere vide which Award of Arbitrator was set aside. Without setting aside the order dated 22.02.2007 passed by the competent Court, the Managing Director of the plaintiff itself cannot assume any jurisdiction of a judicial authority to annul the order dated 22.02.2007 passed by the competent authority.

In the absence of any challenge and nullification of the said order, in my considered opinion, the directions issued by Managing Director for filing the suit appears to be having no judicial background. Section 14 of the Limitation Act has no bearing in such situation. Findings no substance in the revision petition, I deem it appropriate to dismiss all the petitions.

10th May, 2018

shabha

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No