

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

**CWP No. 19268 of 2016
Date of decision : 18.05.2018**

Savita Rani

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present:- Mr. Anil Kumar Sharma, Advocate
for the petitioner.

Mr. H. S. Sitta, DAG, Punjab.

RAKESH KUMAR JAIN, J. (Oral)

The present writ petition has been filed under Articles 226/227 of the Constitution of India by petitioner Savita Rani, wife of Rakesh Kumar, assailing the validity of the orders dated 28.11.2013 (Annexure P-5) and 01.08.2016 (Annexure P-9), by which the property of the petitioner, on which there is a rice mill which is being run by a firm called M/s Shree Balaji Agro Mills, has been attached.

The petitioner had purchased land measuring 11 Kanals 11 Marlas from one Ajaib Singh, situated in village Retgarh, Tehsil Bhawanigarh, District Sangrur by a registered sale deed dated 26.05.2004. After purchasing the said land which is allegedly an unpartitioned land, the petitioner raised the construction of rice mill. The said rice mill is being run under the name and style of M/s Shree Balaji Agro Mills by the petitioner as a sole proprietor. There is another firm called M/s Shree Balaji Exports, Bhawanigarh which is a sole proprietorship firm of Rajesh Kumar who happens to be the brother of

Savita Rani, the petitioner herein. M/s Shree Balaji Exports was allegedly allotted by the Food & Civil Supplies Department, Punjab for custom milling of paddy on behalf of PUNGRAIN for the crop year 2009-10 and to deliver the resultant rice to Food Corporation of India on its behalf. M/s Shree Balaji Exports, Bhawanigarh was entrusted paddy weighing 24410.40 Qtls. comprised in 69744 bags but the said rice mill had delivered only 7537.70 Qntls. of their total rice due i.e. 16354.97 Qntls and 8817.27 Qntls. remained undelivered. The PUNGRAIN filed an application under Section 9 of the Arbitration and Conciliation Act, 1996 before the Arbitrator which was allowed on 02.05.2013 by the Additional District & Sessions Judge, Sangrur and the property of M/s Shree Balaji Exports, Bhawanigarh was attached on account of outstanding rice for the year 2009-10. At one point of time, on account of insufficient delivery of rice of 55.8 Qntls., the District Controller, Food Civil Supplies and Consumer Affairs Department, Sangrur attached the property of the petitioner but later on it was released on 13.08.2013. However, on 28.11.2013, the District Controller, Food Civil Supplies and Consumer Affairs Department, Sangrur wrote a letter to the Deputy Commissioner, Sangrur with a request that the property of the petitioner may not be transferred in the name of any other person because M/s Shree Balaji Exports, Bhawanigarh had to deliver 56 vehicles of rice to them. Thereafter, another letter was written by the District Controller, Food Civil Supplies and Consumer Affairs Department, Sangrur to the Deputy Commissioner, Sangrur on 01.08.2016 that the property of the petitioner may not be released for attachment.

Learned counsel for the respondent-State submitted that

though there is no liability fastened upon the petitioner or the firm of the petitioner, namely M/s Shree Balaji Agro Mills, but since the land on which the rice mill has been constructed is in the joint name of the other members of the family who have also constructed their respective rice mills including M/s Shree Balaji Exports, Bhawanigarh which is owned by sole proprietor Rajesh Kumar who happens to be the brother of the petitioner, therefore, the share of the petitioner has also been attached.

Learned counsel for the petitioner has submitted that even if the land is joint as stated but the firm of the petitioner, which is running the business of rice shelling, has no liability towards the PUNGRAIN or the Food & Civil Supplies Department, Punjab on account of which they could have attached her property. It is also submitted that there is nothing brought on record to show that M/s Shree Balaji Exports, Bhawanigarh is sister concern of the petitioner meaning thereby that the petitioner is a partner in the said firm. Therefore, it is argued that petitioner has been unnecessarily roped in this matter in order to twist her arm to get the recovery of the dues from the person who is actually not liable.

After hearing learned counsel for the parties and taking into consideration the aforesaid facts and circumstances, I am of the considered view that there is total fallacy in the approach of the respondents in passing the impugned orders by which the property of the petitioner has been attached for the purpose of effecting recovery from M/s Shree Balaji Exports, Bhawanigarh in which the petitioner is neither a partner nor is she having any liability towards the respondents in any manner.

With these observations, the present writ petition is allowed

and the impugned orders dated 28.11.2013 (Annexure P-5) and 01.08.2016 (Annexure P-9) are hereby set aside.

18.05.2018
Waseem Ansari

(RAKESH KUMAR JAIN)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No