

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

209

**FAO-4033-2013 (O&M)
Date of Decision : 10.10.2018**

M/s Ramesh Rice Traders

....Appellant

vs.

**Punjab State Warehousing Corporation Ltd. and another
....Respondents**

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Mukand Gupta, Advocate
for the appellant.

Mr. Vikas Singh, Advocate
for the respondents.

AJAY TEWARI, J. (Oral)

CM-16243-CII-2013

For the reasons recorded, the application is allowed. Delay of
17 days in filing the appeal is condoned.

Main Case

This appeal has been filed against the dismissal of the
application under Section 34 of the Arbitration and Conciliation Act, 1996
(for short 'the Act').

Brief facts of the case are that the respondent had filed a claim
before the Arbitrator that it had given 29,500 bags of paddy to the appellant
for milling but the appellant had shelled and returned only 4500 bags of
paddy approximately and misappropriated the rest of the paddy.

The stand of the appellant was very interesting in the written statement. It filed a very vague reply wherein it did not deny the receipt of the paddy but did not mention how many bags were shelled and how many rice were returned and in another paragraph gave another explanation that whatever paddy was given to it was shelled and returned. The appellant himself appeared to give testimony but never appeared to face cross examination. It was in these circumstances that the Arbitrator passed the award of the price of the remaining paddy and an application under Section 34 of the Act having been rejected, the appellant is before this Court.

First argument raised by the counsel for the appellant is that any question of shortfall is an excepted matter and could only be decided by the Managing Director. Moreover, he has raised objection about the interest awarded by the Arbitrator. As per him, the Court refused to exercise jurisdiction vested upon it and therefore, prays that the appeal be allowed.

The next argument raised by counsel for the appellant is that the agreement was with the Governor of Punjab acting through the District Food and Supplies Controller and consequently only he could initiate arbitration proceedings and the present respondent had no role.

Counsel for the respondents has countered by arguing that this is a case where a dishonest miller has misappropriated almost 85 per cent of the paddy which was given for milling and is now raising unnecessarily legalistic arguments. He has argued that the approach of the Court in not interfering with the Award is the correct approach on a conspectus of the

facts and specially in view of the evasive written statement filed by the appellant.

In the totality of the circumstances, I am not persuaded to hold that the findings of the Courts below are either based on no evidence or on such perverse misreading of the evidence so as to justify interference of this Court in the appeal. The appeal stands dismissed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

10.10.2018
anuradha

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No