

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA No.1158 of 2018

Date of Decision :16.08.2018

M/s. Luxmi Rice Mills

.....Appellant

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR.JUSTICE KRISHNA MURARI, CHIEF JUSTICE
HON'BLE MR.JUSTICE ARUN PALLI, JUDGE

Present: Mr. Satish Goel, Advocate for the appellant.

ARUN PALLI, J.:

This is an *intra court* appeal under clause-X of the Letters Patent, against an order and judgment dated 09.03.2018, rendered by the learned Single Judge, vide which the writ petition preferred by the appellant against the order dated 25.10.2017, passed by the District Allotment Committee, Barnala declining to allocate paddy to the appellant for custom milling for kharif marketing season 2017-18, and the order dated 3.11.2017, whereby the Appellate Authority affirmed the said order, has since been dismissed.

One M/s Ganesh Rice Mill, Tulliwal District Barnala was taken on lease by M/s Jai Bir Bajrangi Rice Mills, a partnership firm that consisted of four partners namely Umesh Goyal, Mukesh Garg, Rajinder Kumar and Pankaj Kumar. M/s Jai Bir Bajrangi Rice Mills was allocated paddy by the respondents/authorities for the crop year 2011-12. But, the said mill failed to mill the paddy and rather embezzled the amount and caused a loss of Rs.1.15 crores (approximately) to the respondents. Upon the proceedings initiated by the respondents under Section 9 of the

Arbitration and Conciliation Act, 1996, the trial Court vide its order dated 30.07.2015, restrained M/s Jai Bir Bajrangi Rice Mills as also its partner Mukesh Garg from alienating the property till the final decision in the arbitration proceedings. It would be material to point out further that another rice sheller i.e. M/s Shri Kuber Rice and General Mills existed upon a land that was owned by Mukesh Garg and Hitesh Kumar in equal shares. The said concern was also a partnership firm, and Ashok Kumar son of Baldev Ram and Nitesh Kumar son of Vipin Kumar happened to be the partners therein. Significantly, even M/s Shri Kuber Rice Mills, Kutba, Barnala, was a defaulter of PUNSUP (procuring agency) for the kharif marketing season 2012-13 and as a result an FIR No.35 dated 14.07.2014, under Sections 406/409/420 of IPC was registered against its partners at Police Station Mehal Kalan, Barnala. Further, besides Ashok Kumar and Nitesh Kumar, Hitesh Kumar son of Vipin Kumar was also a partner in M/s Shri Kuber Rice and General Mills. Upon a consideration of the matter and material on record, the District Allotment Committee as also the Appellate Authority reached a conclusion that to circumvent the recovery proceedings as also to frustrate the proceedings pending against M/s Jai Bir Bajrangi Rice Mills and M/s Shri Kuber Rice and General Mills, under the civil as well as the criminal law, Hitesh Kumar son of Vipin Kumar, who was a co-sharer with Mukesh Garg (partner) in M/s Jai Bir Bajrangi Rice Mills, sold a land measuring 14 kanals 12 marlas along with the rice sheller i.e. M/s Shri Kuber Rice and General Mills, vide sale deed No.1117 dated 15.12.2014 to the appellant i.e. M/s Luxmi Rice Mills through its sole proprietor Jugesh Chander. Further Hitesh Kumar and Nitesh sons of Vipin Kumar, who happened to be partners in M/s Shri Kuber Rice Mills were not only real

brothers but were also nephews of Jugesh Chander the sole proprietor of the appellant-firm. Thus, in these circumstances, the competent authority, in terms of clause 11H(c) and (h) of the Custom Policy, reached a conclusion that the appellant was disqualified to seek allocation of paddy for custom milling for the kharif year 2017-18. Further, although pursuant to the sale deed dated 15.12.2014, a land measuring 14 kanals 12 marlas as also the rice mill was mutated in favour of the appellant vide order dated 6.5.2016, passed by the Collector-cum-Sub Divisional Magistrate, Barnala, but in an appeal against the said order, the said mutation was set aside by the Deputy Commissioner-cum-Collector, Barnala. Thus, even the claim of the appellant as regards title to the said property was in disputed.

On being pointedly asked learned counsel for the appellant could not refer to anything on record to show if in the given circumstances the decision of the respondents-authorities to hold the appellant ineligible in terms of clause 11H(c) and (h) of the Custom Policy for allocation of paddy was either contrary to the record or suffered from any material illegality.

In conspectus of the above, we are dissuaded to interfere with the impugned order and judgment rendered by the learned Single Judge as also the orders passed by the authorities.

The appeal being devoid of merit is accordingly dismissed.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

16.08.2018

Manoj Bhutani

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No