

In the High Court of Punjab and Haryana at Chandigarh

RSA No. 629 of 2016(O&M)

Date of Decision: 20.8.2018

M/s Shankar Rice Mills

---Appellant

versus

Haryana State Agricultural Marketing Board and another

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Akshay Jindal, Advocate
for the appellant**

Rekha Mittal, J.

The present appeal directs challenge against concurrent findings recorded by the courts whereby suit filed by the plaintiff-appellant to challenge the notices dated 6.12.2007, 20.12.2007 and 14.1.2008 issued by the Market Committee, Nissing on the basis of checking report dated 29.11.2007 being illegal, null and void, arbitrary and against principles of natural justice and not binding upon the plaintiff was dismissed by the trial court on the ground that the matter in issue falls within the ambit of Special Statute i.e. The Punjab Agricultural Produce Markets Act, 1961, therefore, jurisdiction of the Civil Court is barred and the plaintiff could have taken recourse to efficacious remedy available under the Act by preferring an appeal against the impugned penalty orders. The appeal preferred by the appellant-plaintiff did not find favour with the Additional District Judge,

Karnal.

The sole submission made by counsel for the appellant is that as rice found lying in the premises of the plaintiff-appellant does not fall within the ambit of agricultural produce bought or sold or brought for processing by the plaintiff, in view of provisions of Section 23 of the Haryana Agricultural Produce Markets Act, 1961 (in short “the Act”), market fee is not leviable, therefore, orders impugned passed by the authority concerned in excess of jurisdiction are amenable to challenge before the civil Court without attracting Section 42 of the Act barring jurisdiction of the civil court.

I have heard counsel for the appellant, perused the paper book particularly the relevant provisions of the Act.

Be that as it may, even if a particular item has been wrongly treated as an agricultural produce as has been sought to be contended by counsel, at best, the order passed by the authority concerned can be said to be erroneous, amenable to challenge by availing an appropriate remedy provided under the Act. The jurisdiction of the civil court is barred to go into the question of correctness or otherwise of the order passed by the competent authority qua levy of fee under Section 23 of the Act. Section 42 of the Act in categorical and unambiguous terms say that no order passed under this Act, the rules, regulations or bye-laws made thereunder shall be called in question in any civil court and save as provided in Section 40, no appeal or revision shall lie against any such order. In this view of the matter, I find myself unable to accept contention of the appellant that the appropriate remedy to challenge the impugned order is the civil suit by invoking Section 9 of the Code of Civil Procedure or the courts have

committed an error by rejecting claim of the appellant-plaintiff by holding that civil court does not have the jurisdiction to entertain the same.

Counsel for the appellant would urge that in case findings of the courts with regard to jurisdiction of the civil court being barred are affirmed, the appellant may be allowed sometime to avail appropriate remedy under the Act with a direction to the authority concerned to decide the matter on merits in place of rejecting the same having been filed after delay. He would apprise the court that even the trial court has afforded an opportunity to the appellant to approach the appropriate authority in this regard. Taking a lenient view of the matter coupled with that the appellant was provided with opportunity to file appeal before appropriate authority by the trial court, the appellant is left at liberty to avail appropriate remedy, in accordance with law before the authority concerned within a period of one month from today. In case any such petition/appeal is filed, the same shall be decided on merits, in accordance with law.

Disposed of accordingly.

(Rekha Mittal)
Judge

20.8.2018

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No