

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

RSA No.3210 of 2005 (O&M)

Date of Decision:28.02.2019

M/s Vaishno Rice Mills through its Partner

...Appellant(s)

Versus

The Food Corporation of India and others

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.M.K.Sajjan, Advocate and
Mr.Parvez Chugh, Advocate for the appellant(s).

Mr.Atul Gaur, Advocate for
Mr.Sumeet Goel, Advocate for
respondents No.1 to 3.

Ms.Deepali Puri, Advocate for
respondent No.4.

Mr.S.S.Bedi, Advocate for
respondent No.5.

ANIL KSHETARPAL, J.

CM-8419-C-2005

For the reasons stated in the application, which is supported by
an affidavit, delay of 3 days in re-filing the appeal is condoned.

CM stands disposed of.

CM-8420--C-2005

Exemption sought is granted.

CM stands disposed of.

Main case

By this judgment, RSA Nos.3179, 3209 and 3210 of 2005 shall
stand disposed of, as common issue needs determination.

The plaintiffs are in appeal against the concurrent findings of fact arrived at by the courts below.

The plaintiffs are rice millers, who receive paddy for milling from various State Government Agencies and after milling for a fixed amount (job work) they are expected to supply rice to Food Corporation of India in the account of the Punjab State Civil Supplies Corporation (a State Government Agency). The present suit was filed by the plaintiff claiming a relief of mandatory injunction, directing the Food Corporation of India to issue weight check memo of the consignment of rice supplied by the plaintiff supposedly to Food Corporation of India. It is claimed that out of 21 consignments, only six weight check memos have been issued, however, with regard to 15 consignments, no weight check memos have been issued. The rice has been supplied at the godown of Punjab State Civil Supplies Corporation.

The Food Corporation of India has defended the suits on the ground that there is no acceptance of supply of rice with respect to 15 consignments in accordance with standard operating procedure. It has been pointed out that there are two wings of staff in the Food Corporation of India-one technical staff which checks the quality and another Depot Staff which receives the stock. It has further been pointed out that the stock of 15 consignments was never received by the Depot Staff of Food Corporation of India, which is authorised to receive the consignments.

Both the courts on appreciation of evidence have found merit in the stand of the Food Corporation of India and dismissed the suit.

Although, learned counsel for the appellant(s) made sincere attempt to persuade this Court to take a different view, however, keeping in

view the findings of fact arrived at by the courts below, which are neither shown to be erroneous nor result of any substantive misreading or non-reading of evidence or misappreciation of evidence, this Court does not find any good ground to interfere.

Learned counsel for the appellant has submitted that the aforesaid stock of 15 consignments, which was lying in the godown of Punjab State Civil Supplies Corporation, has already been sold through auction. He has further submitted that the plaintiffs are at least entitled to the aforesaid amount.

The present suit is only for mandatory injunction. If permissible in law, the plaintiffs shall be entitled to initiate action for recovery of the amount from the agency which has sold the stock.

In view of the above, no ground is made out. Hence, all these three regular second appeals are dismissed. Pending application(s), if any, shall also stand disposed of, in terms thereof.

28.02.2019
mks

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No