

**RA-CR-110-2019 in
CR-3408-2019**

**PUNJAB STATE GRAINS PROCUREMENT CORPORATION
AND ANR.**

VS

M/S GILL RICE MILLS AND ANR.

Present: Mr. T.S. Sidhu, Advocate
for the applicants-petitioners.

Mr. Arjun Shukla, Advocate
for the respondents.

[1]. The main case i.e. CR No.3408 of 2019 was decided by this Court vide order dated 23.05.2019 and the revision petition was dismissed.

[2]. The review applicants seek to get the aforesaid order reviewed on the strength of **M/s SCG Contracts India Pvt. Ltd. vs. K.S. Chamankar Infrastructure Pvt. Ltd. and others, 2019(2) R.C.R. (Civil) 249 (SC)** by submitting that the same is applicable only in commercial court cases. The ratio of aforesaid judgment does not apply to the case of present kind.

[3]. While deciding case of **M/s SCG Contracts India Pvt. Ltd.** (supra), the Hon'ble Apex Court has relied upon **Kailash vs. Nanhku, (2005) 4 SCC 480** and **Salem Advocate Bar Association vs. Union of India, (2005) 6 SCC 344.** Para 16 of the aforesaid judgment reads as under:-

16. "Learned counsel for the respondents then strongly relied upon the inherent powers of the Court to state that, in

*any case, a procedural provision such as contained in the amendment, which may lead to unjust consequences can always, in the facts of a given case, be ignored where such unjust consequences follow, as in the facts of the present case. We are again of the view that this argument has also no legs to stand on, given the judgment of this Court in **Manohar Lal Chopra vs. Rai Bahadur Rao Raja Seth Hiralal, [1962] Suppl 1 SCR 450**. In this judgment, the Court held:*

“The suit at Indore which had been instituted later, could be stayed in view of s.10 of the Code. The provisions of that section are clear, definite and mandatory. A Court in which a subsequent suit has been filed is prohibited from proceeding with the trial of that suit in certain specified circumstances.

When there is a special provision in the Code of Civil Procedure for dealing with the contingencies of two such suits being instituted, recourse to the inherent powers under s.151 is not justified...” (at page 470) Clearly, the clear, definite and mandatory provisions of Order V read with Order VIII Rule 1 and 10 cannot be circumvented by recourse to the inherent power under Section 151 to do the opposite of what is stated therein.”

[4]. Section 16 of the Commercial Courts Act provides for amendment in the CPC. Section 16(2) of the Act is apparent that the commercial division and commercial court shall follow the provisions of CPC as amended by the aforesaid Act and where any provision of any rule and jurisdiction of the High Court or any amendment to the Code of Civil Procedure by the State Government is in conflict with the provisions of CPC, then provision of CPC as amended by the aforesaid Act shall

prevail. Even otherwise, on facts the conduct of the applicants-petitioners in not filing the written statement within 120 days is enough to forfeit the right of filing written statement as held in **M/s SCG Contracts India Pvt. Ltd.** (supra). In the present case, even a period of 120 days had expired much prior to 04.04.2019, whereas the written statement was sought to be filed only on 24.04.2019.

[5]. Under the garb of present review application, learned counsel for the applicants-petitioners seeks to re-argue the case, which is not warranted at all. The review application is found to be devoid of merits and is accordingly dismissed.

08.07.2019
Atik

(RAJ MOHAN SINGH)
JUDGE