IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CR No. 6933 of 2019 (O&M)
Date of decision : 02.11.2019
...

Punjab State Grains Procurement Corporation Limited
through its Managing Director (PUNGRAIN), Chandigarh
and another

................Petitioners

vs.

M/s Gill Rice Mills and another

.................Respondents

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. T.S. Sidhu, Advocate for the petitioner.
...

H. S. Madaan, J.

M/s Gill Rice Mills, Khatib Road, Batala, Tehsil Batala, District Gurdaspur, brought a civil suit No. 252/2018 against Punjab State Grain Procurement Corporation Limited, through its Managing Director (PUNGRAIN), Chandigarh and others, seeking recovery of Rs.8,72,13,125/-, alongwith interest and costs besides craving for possession of the land measuring 8 kanals 19 marlas, situated at village Khatib, Tehsil Batala, District Gurdaspur, where rice mill of the plaintiff was situated alongwith full machinery and electric connection.

On notice, all the three respondents appeared. However, defence of the defendants was struck of on 24.4.2019 since they had not filed written statement within the stipulated period, counted from the date of their service and appearance in the court. After recording the evidence produced by the plaintiff, the Court of Civil Judge (Junior Division), Gurdaspur, decreed the suit of the plaintiff with costs, vide judgment and decree dated 29.7.2019.

The defendants have filed an appeal against that judgment and decree before District Court at Gurdaspur, which is stated to be pending. The plaintiff decree holder had filed an application for execution of the decree.

It may be mentioned here that Rajinder Singh, proprietor of M/s Gill Rice Mills, Khatib Road, Batala, Tehsil Batala, District Gurdaspur, had filed a writ petition before this Court seeking to restrain the Food and Supplies Officer from not interfering in the milling of the paddy by his Rice Mills i.e. M/s Gill Rice Mills, Khatib Road, Batala and for being allowed to sell the rice and deposit the sale proceeds in the Bank with a further direction to the Punjab and Sind Bank, to get his paddy milled under its supervision and deposit the sale amount in the loan account of such petitioner. That writ petition was dismissed by the single Bench of this Court vide order dated 30.7.2014. Rajinder Singh had filed a LPA challenging that order before a Division Bench of this Court and vide order dated 12.8.2014, that LPA was dismissed. Rajinder Singh, proprietor of the said mill had approached the Apex Court by way of filing a Special Leave Petition, wherein learned counsel appearing for the State submitted that the State shall make an endeavour to sell the paddy in the stock by carrying out an auction within a fortnight and the amount secured in the sale shall be deposited in the Registry of the Apex

Court, which in turn, shall invest the same in a short term fixed deposit in UCO Bank, Supreme Court Compound.

It may be mentioned here that the Punjab State Grain Procurement Corporation Limited and another had also filed a Special Leave to Appeal against M/s Gill Rice Mills and another. However, that Special Leave to Appeal was disposed of on 4.10.2019, observing that in view of the trial Court having passing the decree on 29.7.2019, the petitioner has remedy of filing an appeal against said order and all questions raised before the Apex Court shall be open to be raised in appeal, if filed. Accordingly, the Special Leave Petition was disposed of.

Now, the appeal has been filed by defendants No. 1 and 2 , which is pending. In the Execution Application filed by the plaintiff-decree holder, it got the bank accounts of the judgment debtors attached in terms of the orders dated 24.10.2014 and 29.10.2019 passed by the Executing Court of Civil Judge (Junior Division), Gurdaspur, directing that amount of Rs.1.5 crore each from three different accounts of judgment debtors be transferred and deposited in the account of decree holder. Such orders have been challenged in the instant revision petition.

According to the revisionist an FIR dated 1.3.2013 for offences under Sections 420, 406 IPC was registered against respondent miller on account of shortage of paddy and after getting enquiry conducted by Deputy Commissioner, arbitration proceedings were initiated against the respondent- miller for claim amount of Rs.15,32,24,537/- in March 2014, as per clause 27 of the agreement dated 23.11.2012. However, during the pendency of the arbitration proceedings, the miller has filed a civil suit and got a decree in his favour. The appeal against judgment and decree passed by Civil Judge (Junior Division), Gurdaspur, is listed before the District Judge for 7.11.2019. The Executing Court acting with haste has attached the bank account of the defendants judgment debtors. Therefore, the orders be set aside.

I have heard learned counsel for the revisionist, besides going through the record.

Admittedly, the appeal against the judgment and decree passed by the trial Court instituted by the revisionist is pending before District Judge, Gurdaspur, where the next date of hearing is stated to be listed for 7.11.2019. The revisionist could very well move an application seeking stay of the operation of the decree passed by the trial Court as well as execution proceedings. Even if the date fixed is 7.11.2019 there, the revisionist can certainly move an application for early hearing. The revisionist instead of availing of the said remedy, which was proper and appropriate under the circumstances, has rushed to this Court by way of filing the present revision petition. Therefore, the revision petition cannot proceed and is dismissed accordingly.

(H.S. Madaan)
Judge

2.11.2019
chugh

Whether speaking / reasoned Yes / No

Whether reportable Yes / No