

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO No. 4582 of 2018 (O&M)

Date of decision: 9th May, 2023

M/s Guru Rice Mills

Appellant

Versus

Punjab State Grain Procurement Corporation Limited & another

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Tribhawan Singla, Advocate for the appellant.
Mr. T. S. Sidhu, Advocate for respondent No. 1.

AVNEESH JHINGAN, J (Oral):

1. This appeal under Section 37 of the Arbitration and Conciliation Act, 1996 (for short, 'the Act') is filed against the order dated 9.3.2018 whereby the award was modified under Section 34 of the Act.

2. The brief facts are that the parties entered into a custom milling agreement. The terms and conditions provided for dispute resolution through arbitration. The arbitration initiated at the instance of respondent No. 1 culminated in award dated 27.3.2014. In the objections filed by the appellant, the award was modified.

3. Learned counsel for the appellant relies upon the decision of the Supreme court in *National Highways Authority of India v. Sri P. Nagaraju @ Cheluvaiah and another*, 2022(3) R. C. R. (Civil) 604 to submit that award cannot be modified.

4. Learned counsel for respondent No. 1 defends the impugned order.

5. The Supreme Court in *Sri P. Nagaraju @ Cheluvaiah and another case (supra)* held:

“40. That being the fact situation and also the position of law being clear that it would not be open for the court in the

proceedings under Section 34 or in the appeal under Section 37 to modify the award, the appropriate course to be adopted in such event is to set aside the award and remit the matter to the learned Arbitrator in terms of Section 34(4) to keep in view these aspects of the matter and even if the notification dated 28.03.2016 relied upon is justified since we have indicated that the same could be relied upon, the further aspects with regard to the appropriate market value fixed under the said notification for the lands which is the subject matter of the acquisition or comparable lands is to be made based on appropriate evidence available before it and on assigning reasons for the conclusion to be reached by the learned Arbitrator. In that regard, all contentions of the parties are left open to be put forth before the learned Arbitrator.”

6. Without commenting on the merits of the case, considering that modification of the award is against the law laid down by the Supreme Court, the impugned order is set aside and the matter is remanded back to the court concerned for deciding the objections afresh.
7. The appeal is allowed.
8. As the main appeal has been allowed, pending application(s), if any, is rendered infructuous.

[AVNEESH JHINGAN]
JUDGE

9th May, 2023
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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |