

RSA-1024-2013(O&M)

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

RSA-1024-2013(O&M)

Date of decision:-20.4.2023

M/s Nav Bharat Trading Company

...Appellant

Versus

The Punjab State Co-operative Supply & Marketing Federation
Ltd.(Markfed) and another

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.K.R. Dhawan, Advocate
for the appellant.

Mr.Raghav Soni, Advocate
for the respondents.

H.S. MADAAN, J.

1. Briefly stated, facts of the case are that plaintiff M/s Nav Bharat Trading Company Rice Mill, Zira, District Ferozepur through its partners had brought a suit for recovery against defendants i.e. State of Punjab Co-operative Supply & Marketing Federation Ltd. (Markfed), Chandigarh as well as its District Office at Ferozepur. The said suit had been filed for recovery of Rs.90,833/- i.e. Rs.70,008/- as the balance of milling charges of paddy for the crop year 2002-03 and Rs.20,825/- as interest thereon @ 21% per annum.

2. As per the case of the plaintiff, it has been carrying on

business of purchase of paddy, sale of rice and paddy shelling etc.; the plaintiff firm had entered into milling contact with Markfed for paddy shelling of the crop year 2002-03; after completion of the work, bills were submitted to the defendants to claim payment of milling charges etc., Out of those bills the defendant Markfed illegally retained an amount of Rs.70,008/- on account of alleged late submission of documents of the rice delivered to FCI on behalf of the Markfed.

According to the plaintiff, the defendants had no right to do so since it had delivered rice to FCI in the account of Markfed by shelling its own paddy; after paddy shelling, the plaintiff firm delivered documents to the Markfed qua the rice delivered to FCI on behalf of the defendant Markfed; the defendant Markfed after receipt of those documents from the plaintiff firm, issued Release Order (RO) to it for lifting of due paddy, in quantity, equal to rice delivered; the defendant Markfed had not suffered any loss rather the plaintiff firm had suffered loss at the hands of defendant Markfed by using paddy from its own account for delivery of rice to FCI in the account of the defendant Markfed and then to receive the same from the defendant Markfed; the Markfed had no right to retain amount of Rs.70,008/-. When the defendants did not make such payment, plaintiff firm brought the suit in question after service of notice dated 17.8.2004 on the Registrar, Cooperative Societies, Punjab, Chandigarh under Section 79 of the Punjab Cooperative Societies Act, 1961.

3. On being put to notice, the defendants appeared and contested the suit of the plaintiff filing a written statement contending that amount of Rs.70,008/- was rightly deducted on account of interest due to

the late submission of the rice documents by the plaintiff during the crop year 2002-03 for 468 days; it was so done in terms of the Clause 17 of the agreement dated 1.10.2002 entered into between the parties; in terms of that clause all the relevant documents were to be delivered within three days by the plaintiff to the defendants and if there was delay of beyond three days, the defendants have to suffer a loss of interest on payment, which is to be received from FCI because the defendants can claim the payment of the paddy from FCI only after receiving the relevant documents regarding the delivery of rice to FCI in the account of defendants. Refuting the remaining assertions, the defendants prayed for dismissal of the suit.

4. The plaintiff had filed replication controverting the allegations in the written statement whereas reiterating the averments in the plaint. On the pleadings of the parties, following issues were framed:

1. Whether the plaintiff is entitled for recovery of suit amount as alleged? OPP.
2. Whether the plaintiff is entitled for interest at the rate of 21% P.A. as alleged? OPP.
3. Relief.

5. The parties led evidence in support of their respective claims.

6. After hearing learned counsel for the parties, the trial Court of Civil Judge (Jr.Divn.), Ferozepur by giving issue-wise findings dismissed the suit of the plaintiff. This was so done vide judgment and decree dated 14.10.2010.

7. Feeling aggrieved by the said judgment and decree, the

plaintiff had filed an appeal in the Court of District Judge, Ferozepur, who vide judgment and decree dated 28.8.2012 dismissed the same upholding the judgment and decree passed by the trial Court.

8. Still feeling dissatisfied, the plaintiff has knocked at the door of this Court by way of filing a regular second appeal praying that the same be accepted, the impugned judgments and decrees passed by the Courts below be set aside and his suit be decreed.

9. Notice of the appeal has been given to the respondents, who put in appearance through counsel.

10. I have heard learned counsel for the parties besides going through the record.

11. In this case the trial Court in view of the pleadings of the parties and after analyzing the evidence brought on record by them have returned a clear finding that there was agreement Ex.P3 between the parties regarding shelling of rice. In terms of Clause 17 of the agreement dated 1.10.2002, it was agreed that delivery of the rice shall be deemed to have been completed by the miller after the stock are loaded into wagons or delivered into the godowns as per direction of the authorized responsible official of the agency after necessary weighment/inspection and approval of the quantity in accordance with the prescribed procedure of the State Government at the cost of miller. As agreed it was responsibility of the miller to supply "Acceptance Note" weight check memo and all relevant documents to the concerned agency within three days of delivery of rice for claiming payment from FCI, failing which he shall be liable to pay interest at the rate 21% per annum for the delayed

period. It was also agreed that all the expenditure including labour, transportation and any other incidental expenditure etc. incurred in connection with the lifting of paddy from storage points or any other place and delivery of rice shall be borne by the miller. The trial Court referring to various documents Ex.D7, Ex.D8 etc. has observed that the record shows delay of 468 days in total between delivery of rice by the plaintiff and delivery of documents to the District Officer of defendants. Ex.D2 happened to be rice document register proved by DW2. Such delay made the plaintiff liable to pay interest @ 21%. A categorical finding has been given that on account of delay to supply acceptance note weight check memo and all relevant documents by the plaintiff to the defendant Markfed within three days of delivery of rice for claiming payment from FCI, the defendants were justified in charging interest @ 21% for the delayed period and this amount has rightly been deducted by the defendants. The plaintiff firm was not found entitled to recover the amount so deducted to the tune of Rs.70,008/- much less with interest as claimed in the suit.

12. Learned District Judge, Ferozepur had also reached the same conclusion giving valid reasons for doing so.

13. I find that the verdict given by the Courts below are based upon proper appreciation and correct interpretation of law. Both the Courts had rejected the claim of the plaintiff. I do not see any reason to disagree with the Courts below and take a different view and further to interfere with the impugned judgments and decrees. Those judgments and decrees are upheld.

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- 14. No substantial question of law or fact arises in this appeal.
- 15. The appeal stands dismissed accordingly.

Since the main appeal stands dismissed, the miscellaneous application(s), if any, stand disposed of accordingly.

20.4.2023 (H.S.MADAAN)
Brij JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No