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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1)

CWP-23855-2012
Date of Decision:02.05.2024

M/S SHANKAR RICE MILLS

..... Petitioner

Versus

FCI & ORS

..... Respondents

2)

CWP-1755-2013

M/S SHANKAR RICE MILL

.....Petitioner

Versus

FOOD CORPORATION OF INDIA & ORS

.....Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Ankush Sharma, Advocate for
Mr. M.K. Dogra, Advocate
for the petitioner.

Mr. K.K. Gupta, Advocate
for the respondent-FCI.

Mr. Anupam Singla, Advocate
for respondents No.2,3, 7 & 10 in CWP-1755-2013.

JAGMOHAN BANSAL, J. (Oral)

1. On 11.01.2017, the following order was passed:

“Present misc. application has been filed by the petitioner claiming that the present writ petition has been filed against the action of the respondents in refusing to accept the custom milled rice as delivered by the petitioner despite the same being of best quality and within the prescribed specifications of the competent authority.

It is averred that the petition has been admitted on 22.1.2016, but during pendency of the petition the respondents have initiated arbitration proceedings

appointing the Arbitrator to adjudicate the dispute between the petitioner and the respondent-Corporation. The petitioner appears to have raised a counter claim of Rs.8.73 crore on account of business loss and storage charges etc. whereas the claim of the respondent-Corporation is for about a sum of Rs.4 crore out of which Rs.2.24 crore has allegedly been adjusted after the sale of the stock of the rice. Apprehension of the petitioner is that in case the arbitration award is passed during pendency of this petition, the present writ petition would become infructuous.

Through the present misc. application, a prayer has been made for staying the proceedings before Shri A.K.Katari, the Arbitrator.

On asking of the Court, counsel for the petitioner informs that the claim of the parties is to be considered by the Arbitrator and the evidence is being produced by the parties and the matter is at the stage of production of evidence by the respondent-Corporation.

After taking into consideration the facts and circumstances of the case, I am of the opinion that the scope of interference in the arbitration proceedings in the present writ petition would be a step towards usurping the jurisdiction but at the same time steps can be taken for final adjudication of the claim of the petitioner by disposing of the present petition which stands admitted and pending before this Court since 2012.

Misc. application is dismissed, at this stage, with a direction that Registry shall list the writ petition for final adjudication on 22.2.2017.

It is observed that this Court can endeavour to adjudicate the claim of the petitioner prior to the award of the Arbitrator where the counter claim of the petitioner is also to be adjudicated upon.

The above said order has been passed taking into consideration the fact that stay of proceedings before the

Arbitrator might prejudice the rights of the petitioner himself who has raised counter claim for an amount higher than the amount claimed by the respondent- Corporation.”

2. Learned counsel for the respondents submits that arbitrator has already adjudicated the matter. The petitioner preferred application under Section 34 of Arbitration Act, 1996 assailing award of arbitration. The said petition stands dismissed. The petitioner has further filed *FAO No.3275 of 2021* titled as ‘*Shanker Rice Mill and another Vs. Punjab Agro Food Grains Corporation Limited and others*, before this Court under Section 37 of Arbitration Act, 1996 assailing order passed by Addition District Judge, Gurdaspur.

3. In the wake of aforesaid development, the present petition stands disposed of.

4. The petitioner is at liberty to move an appropriate application, if something survives.

(JAGMOHAN BANSAL)
JUDGE

02.05.2024
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>