

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

CR No.5120 of 2023

Date of Decision: 09.01.2024

M/s Guru Rice Mills

...Petitioner

Versus

Punjab Agro Food Grains Corporation Ltd.

...Respondent

CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present:- Mr. Rishab Kumar Jain, Advocate
for the petitioner.

Mr. Somesh Gupta, Advocate
for the respondent.

MEENAKSHI I. MEHTA, J. (Oral)

By filing the instant revision-petition under Article 227 of the Constitution of India, the petitioner-defendant (here-in-after to be referred as 'the defendant') has laid challenge to the order passed by learned Additional Civil Judge (Sr. Division), Barnala (for short 'the trial Court') on 05.07.2023 in *Civil Suit No.336 of 2018* titled as '*Punjab Agro Food Grains Corporation Ltd vs. M/s Guru Rice Mills*', whereby the application Annexure P-6, moved by it under Order 7 Rule 11(d) CPC for seeking the rejection of the plaint on the ground that the relief, as claimed by the plaintiff therein, was time-barred, has been dismissed.

2. I have heard learned counsel for the petitioner-defendant as well as learned counsel for the respondent-plaintiff in the present revision-petition and have also gone through the file carefully.

3. Learned counsel for the defendant contends that initially, as per the agreement (Annexure P-2) executed between the parties, the last date for its performance had been stipulated as 30.03.2010 but the same had, subsequently, been extended to 15.07.2011 whereas the plaintiff filed the above-referred Suit in the year 2018, much after the lapse of the prescribed period of limitation, i.e 03 years, on 14.07.2014 and in these circumstances, it is explicit that the claim of the plaintiff in the said Suit was time-barred and hence, the plaint was liable to be rejected on this score alone, as envisaged under Order 7 Rule 11(d) CPC but vide the impugned order, the trial Court has wrongly dismissed the aforementioned application, as filed by the defendant in this regard and therefore, this order is not legally sustainable and hence, it deserves to be set-aside.

4. Per-contra, learned counsel for the respondent-plaintiff argues that the above-said Suit has been filed well within the period of limitation and thus, the impugned order is perfectly legal and correct.

5. The plaintiff has filed the afore-said Suit against the defendant for seeking the decree for recovery of Rs.4,70,67,987/-, along-with interest @ 12% per annum while claiming that it has suffered the loss on account of the breach of terms and conditions of the agreement by the defendant. It is well-settled that for adjudicating an application under Order 7 Rule 11 CPC, the Court has only to look into the averments/pleadings as canvassed in the plaint and the pleas taken or as may be taken by the defendant in his defence, are not to be considered at that stage and a bare perusal of the plaint (Annexure P-1) reveals that the plaintiff has categorically averred therein that initially, the dispute arising out of the alleged violation of the terms and condition of the above-said agreement was referred to the Arbitrator but vide the Award/order

dated 09.06.2014, the Arbitrator observed that the Managing Director of the plaintiff-Corporation would be at liberty to decide the matter in accordance with the terms and conditions of the agreement and in pursuance of this order, the afore-said Authority passed the order dated 23.06.2015 for the recovery of the above-mentioned amount from the defendant but however, the Execution Application, as moved by the plaintiff on the basis of the afore-referred order, was dismissed on 02.01.2018 and then, the said Suit had been filed in the year 2018 itself. It being so, the issue regarding the commencement of the period of limitation for filing the Suit, would be a mixed question of law and facts and the same can be adjudicated by the trial Court only after appreciating and evaluating the evidence that may be led by the parties on the record in support of their respective contentions in this regard and therefore, the plaintiff cannot be non-suited on the ground of limitation at the very threshold of the proceedings in the above-said Civil Suit.

6. As a sequel to the fore-going discussion, this Court is of the considered opinion that the impugned order does not suffer from any illegality, irregularity, infirmity or perversity so as to call for any interference by this Court. Resultantly, the revision-petition in hand, being *sans* any merit, stands dismissed.

09.01.2024
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(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: Yes
Whether Reportable: Yes