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

RSA-1134-2021 (O&M)
Reserved on : 04.03.2025
Date of Decision : 17.03.2025

Punjab State Civil Supplies Corporation Ltd. & Ors ... Appellant(s)

VERSUS

M/s Biroke Rice Mill & Ors ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present: Ms. Deepali Puri, Advocate for the appellants.

ALKA SARIN, J.

CM-4973-C-2021

1. This is an application for condonation of delay of 100 days in refiling the appeal.

2. For the reasons stated in the application, delay of 100 days in refiling the appeal is condoned. CM stands disposed off.

CM-4974-C-2021

3. This is an application for condonation of delay of 03 days in filing the appeal.

4 For the reasons stated in the application, delay of 03 days in filing the appeal is condoned. CM stands disposed off.

RSA-1134-2021

5. The present appeal has been preferred by the plaintiff-appellants challenging the judgment and decree dated 28.02.2019 passed by the Trial Court and the judgment and decree dated 30.10.2019 passed by the

First Appellate Court whereby the suit for recovery filed by them has been dismissed.

6. Brief facts relevant to the present *lis* are that the plaintiff-appellants filed the suit averring that an agreement was entered with the defendant-Mill for the supply of rice after custom milling of paddy for the year 1999-2000. An agreement was executed between the parties on 17.11.1999 and it was further agreed that the rice after custom milling will be supplied as per terms and conditions of agreement to the plaintiff-appellants or to the FCI on account of PUNSUP. If the defendant-Mill failed to comply with the terms and conditions, then it was liable for all sorts of costs, if any, incurred by PUNSUP. It was submitted that plaintiff-appellants delivered 61469 bags of fine variety Paddy weighing 39,954.85.00 Qtls. to the defendant-Mill and the defendant-Mill had to deliver 26502.05.200 Qtls. of rice to FCI by the due date i.e. 31.08.2000. However, the defendant-Mill did not deliver 2495.35.200 Qtls. of rice by the due date and it was liable to pay 1.5 times economic costs etc. including interest @ 21% per annum till the date of realization. The plaintiff-appellants filed a claim of ₹3,38,915/- with interest before the Arbitrator who vide award dated 26.04.2005 awarded only ₹9,808/- with interest @ 18%. The plaintiff-appellants filed objections under Section 34 of Arbitration and Conciliation Act, 1996 before the Additional District Judge, Chandigarh who vide order dated 09.08.2007 set aside the award. The defendant-respondents filed FAO-488-2008 in the High Court against the order of the Additional District Judge, Chandigarh and the High Court allowed the MD of PUNSUP to decide the matter himself. The MD of PUNSUP decided the matter and now the recoverable amount is ₹2,22,611/- alongwith interest @ 21% per annum from 08.04.2011

till its realization. Hence, the present suit for recovery. In the written statement defendant-respondents raised objections about maintainability, estoppel, etc. It was pleaded that previously the plaintiff-appellants had filed arbitration proceedings against the defendant-respondents and the award was not in their favour. According to the defendant-respondents the procedure adopted by the plaintiff-appellants to get the matter decided by the Managing Director of PUNSUP was not legal as the Managing Director was himself a party to the agreement and could not decide the matter. The actual dispute between the parties was not regarding interest but rather regarding delay in the delivery of rice to the defendant-Mill. No replication was filed by the plaintiff-appellants.

7. On the basis of the pleadings of the parties the following issues were framed :

1. Whether plaintiffs are entitled to recover the suit amount of ₹2,22,611/- along with interest as prayed for ? OPP
2. Whether the present suit is barred by limitation ? OPD
3. Whether suit is not maintainable in the present form ? OPD
4. Relief.

8. The Trial Court vide judgment and decree dated 28.02.2019 dismissed the suit holding inter-alia that the plaintiff-appellants had not been able to prove the default committed by the defendant-respondents or any liability of the defendant-respondents to make the payment. Aggrieved by the decision of the Trial Court, an appeal was preferred by the plaintiff-

appellants which appeal was dismissed by the First Appellate Court vide judgment and decree dated 30.10.2019. Hence, the present regular second appeal by the plaintiff-appellants.

9. The learned counsel for the plaintiff-appellants has contended that both the Courts have erred in dismissing the suit of the plaintiff-appellants. It is urged that the defendant-Mill had failed to supply the paddy as agreed by the parties and was therefore liable to pay to the plaintiff-appellants in terms of the agreement.

10. Heard.

11. In the present case both the Courts have held that the plaintiff-appellants failed to prove the default by the defendant-Mill in the supply of rice after custom milling of the paddy. The statement of account Ex.P6 produced by the plaintiff-appellants were not proved in accordance with law. The official who produced them had not prepared them. Even the order of the Managing Director of PUNSUP Ex.P2/D was passed on the basis of a statement of account. The Trial Court found that the complete supporting documents of statement of account and calculation sheets had not even been brought on the judicial file. The plaintiff-appellants failed to establish the case set up by them. In absence of any evidence in this regard, the plaintiff-appellants are not entitled to the relief of recovery. In the face of the findings recorded by both the fact finding Courts, there is no scope for any interference by this Court. No credible and reliable evidence has been highlighted by the counsel for the plaintiff-appellants for this Court to take a contrary view from the one taken by both the Courts. In view thereof, no fault can be found with the findings returned by both the Courts concerned. No other point was argued.

12. In view of the discussion above, no question of law, much less any substantial question of law, arises in the present case which requires determination by this Court. The appeal, being devoid of any merit, is accordingly dismissed. Pending applications, if any, also stand disposed off.

17.03.2025
Yogesh Sharma

(**ALKA SARIN**)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO