

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****210****RSA-266-2010 (O&M)****Date of decision: 22.05.2025**

**The Punjab State Cooperative Supply and
Marketing Federation Limited (Markfed) through
the District Manager, Ferozepur**

...Appellant(s)**Vs.**

**M/s. Raj Kumar Ashok Kumar,
Rice Sheller and others**

...Respondent(s)**CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

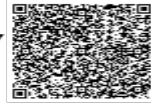
Present:- Ms. Deepali Puri, Advocate with
Mr. Arjun Dhaliwal, Advocate,
for the appellant.

None for the respondent.

NIDHI GUPTA, J.

The plaintiff is in second appeal against the concurrent judgments and decrees of the learned Courts below, whereby the suit filed by the plaintiff for recovery of Rs.2,73,065/- being amount payable by the defendants to the plaintiff on account of shortage of paddy, delayed milling of the paddy, late submission of the documents and price of the gunny bags etc., has been dismissed by both the Courts below.

2. Learned counsel for the appellant *inter alia* submits that the defendant-Firm was allotted to the plaintiff-Federation by the State of Punjab for milling of paddy. It is submitted that the learned Courts below were in patent error in non-suiting the appellant/plaintiff as the plaintiff had proved on record that paddy was duly supplied to the defendant. The

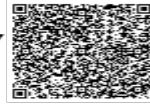


plaintiff had placed on records the receipts Ex.P6 to Ex.P10 issued by the defendant acknowledging the receipt of paddy; however, learned Courts below have erred in not properly considering these receipts which amounted to admission on the part of the defendant. Therefore, the suit amount was recoverable from the defendant. It is contended that mere absence of the Agreement in question would not negate the fact that the paddy was supplied to the defendant-Mill. Besides the receipts, the defendant had also admitted in its written statement that paddy was received by the defendant-Mill. As such, judgments of the learned Courts below are based on conjectures and surmises and are liable to be set aside.

3. No other argument is raised on behalf of the plaintiff.

4. I have heard learned counsel for the appellant/plaintiff and perused the case file in great detail.

5. I find no merit in the submissions made on behalf of the appellant/plaintiff. The defendant No.1-Rice Mill was allotted to the plaintiff for custom milling of paddy procured at support price. It is the case of the plaintiff that it had supplied 7977 bags of paddy to the defendant, against which defendant had issued receipts Ex.P6 to Ex.P10. It is pleaded that during the process of milling, 3505 bags and 4142 bags more were supplied to the defendant for milling. As per the plaintiff, the net paddy supplied to the defendant was 3505 bags of IR-8 quality and 12119 bags of fine variety. The defendant was required to deliver the above said stock after milling upto 28.02.1996 which was extended to



31.08.1996. However, the defendant had delivered only 1,000 bags of IR-8 and only 5500 bags of fine variety. Defendant was also required to maintain delivery of 20% of stock in October-November 1995; 26% in December 1995; 26% in January 1996; and 28% in February 1996. The plaintiff pleaded that the defendant had failed to adhere to the schedule and had, therefore, committed breach of contract. In this background, the appellant filed present suit.

6. However, submissions on behalf of the appellant are liable to be outrightly rejected as admittedly no Agreement to above effect was produced by the plaintiff. This gains especial significance as PW1 has admitted in his cross-examination that prior to supply of paddy, execution of Agreement is a must; and without Agreement, Department cannot supply paddy to the Miller. Thus, PW1 has categorically stated that in the absence of any Agreement between the parties, no paddy can be supplied. PW1 has stated that as per the Milling Policy, Agreement is to be executed by the defendants, however they failed to do so. But, if that were so, it is not clear as to why paddy was supplied by the plaintiff to the defendant in the absence of an Agreement received from the defendant.

7. The above facts establish that prior to supply of rice an Agreement is required to be executed between the parties and only then the paddy is supplied/stored in the premises of Miller. Admittedly, no such Agreement has been brought on record by the plaintiff. Thus, the plaintiff utterly failed to prove that there was an Agreement between the parties, which the defendant had breached.



8. Moreover, no document was produced by the plaintiff to show as to how recovery amount of Rs.2,73,065/- has been calculated. No doubt, plaintiff has produced receipts Ex.P6 to Ex.P10. However, the said receipts were not executed in presence of the witnesses; nor have the signatures of the Executant thereupon been admitted. As such, said receipts were not proven in accordance with law.

9. PW1 has also admitted in his cross-examination that in the purported Agreement, there was an Arbitration Clause, as per which any dispute between the parties, was to be referred to arbitration. For this reason, present Civil Suit was barred. Further, it is the own admission of the plaintiff that the last date by which the defendant was required to supply the milled rice to the plaintiff was 31.08.1996. However, the instant suit has been instituted on 24.12.1999; which is beyond the period of limitation. As such, present suit was barred by limitation as well.

10. Learned counsel for the plaintiff is unable to dispute or controvert the above said facts and findings on record.

11. In view of the discussion above, no ground is made out to interfere in the concurrent judgments and decrees of the learned Courts below. The present regular second appeal is hereby **dismissed**.

12. Pending applications, if any, stand disposed of.

22.05.2025

Divyanshi

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No