



**In the Court of Gurnam Singh-II,
Addl. District Judge-I, Ferozepur (UID: PB0094)**

**Arbitration Case No.08/RBT.
Date of Instt: 03.07.2017/20.12.2018.
CIS No. Arb/09/2017.
CNR No.PBFZ010028512017.
Date of Decision: 06.12.2019.**

Punjab State Civil Supplies Corporation Ltd. through its District
Manager, Ferozepur.

.....Petitioner.

Versus

1. M/s Ken Agro Rice Mill, Yare Shah Wala, Tehsil and District Ferozepur.
2. Rajinder Singh son of Resham Singh, resident of Village Yare Shah Wala, Tehsil and District Ferozepur.
3. Sukhwinder Singh son of Hardeep Singh, resident of village Mallan Wala Khas, Tehsil Zira, District Ferozepur.
4. Sukhchain Singh son of Ajit Singh, resident of village Yare Shah Wala, Tehsil and District Ferozepur.
5. Hardeep Singh son of Kundan Singh son of Hazara Singh, resident of Ward No.12, Mallan Wala, Tehsil Zira, District Ferozepur.
6. Baljeet Singh son of Sher Singh son of Bagicha Singh, resident of

village Katgora, Tehsil & District Ferozepur..

.....Respondents.

Petition U/S 9 of the Arbitration and Conciliation Act, 1996.

Present:

Sh. BR Arora, Advocate, counsel for the petitioner.

Sh. Tarun Sharma, Advocate, counsel for respondents No.1 to 4.

Sh. Hardeep Bajaj, Advocate, counsel for respondent No.5.

Sh. A.S. Dhanju, Advocate, counsel for respondent No.6.

ORDER

The petitioner has preferred this petition under Section 9 of the Arbitration and Conciliation Act (hereinafter referred to as the Act) for restraining the respondents from alienating the land, as detailed in the head note of the petition, situated at villages Yare Shah Wala, Satiye Wala and Nizamdin Wala, Tehsil and District Ferozepur (hereinafter referred to as the land in question) along with building and machinery of rice sheller, situated at village Yare Shah Wala, Tehsil & District Ferozepur.

2. It was pleaded in the petition that the petitioner, Punjab State Civil Supplies Corporation Ltd. (hereinafter referred to as Punsup) is a company owned by Punjab Government, which was

registered under the Indian Companies Act, having its head office at Chandigarh and one of its District Office at Ferozepur.

3. It was further pleaded that Punsup in order to supply rice for central pool had been purchasing paddy from market and entered into an agreement with various rice millers for custom milling of paddy and for supply of resultant rice to FCI on behalf of Punsup. The paddy purchased and the resultant rice belonged to Central Government. Neither Punsup nor the rice millers could sell paddy or rice without the permission of Central Government.

4. It was further alleged that during the year 2016-17, the firm of respondent No.1 was allotted to Punsup by Food and Supplies Department for custom milling of paddy of crop 2016-17 vide an agreement dated 15.10.2016 between the District Manager, Punsup, Ferozepur and respondent No.1 through its partners for custom milling of paddy of crop 2016-17. The firm of respondent No.1 was required to deliver rice to FCI in the account of Punsup. In pursuance of the agreement, respondent No.1 was issued 2,02,193 bags of paddy weighing 75,882.37.500 quintals of grade-I paddy for custom milling against proper receipts. Physical verification in the premises of the

respondent firm was conducted by officials of Punsup, who found shortage of 24,442 bags of paddy weighing 9165.75 quintals, which the respondents had embezzled. A sum of Rs.1,72,37,974/- was recoverable from the respondents. Respondents No.5 & 6 stood guarantors of respondents No.1 to 4. Respondent No.4 gave an affidavit dated 30.04.2017, wherein he admitted shortage of paddy.

5. The property mentioned in the head note of the petition belonged to the respondents, who were threatening to sell the same. So, under Section 9 of the Act, the petitioner was entitled to get an injunction order. The cause of action accrued to the petitioner 3 days prior to the filing of the petition. The property was situated at villages Yare Shah Wala, Satiye Wala and Nizamdin Wala, Tehsil and District Ferozepur, within the jurisdiction of this court. So, a prayer was made to allow the petition.

6. Upon notice of the petition, the respondents appeared and contested the petition.

7. Respondents No.1, 3 & 4 filed joint written statement, wherein they raised preliminary objection that the petition was not maintainable.

8. On merits, it was not disputed that paddy was issued to respondent No.1 firm for custom milling. It was, however, denied that the answering respondents had embezzled any rice. No physical verification was conducted on 02.05.2017. The alleged physical verification report, if any, was prepared by the officials of the Punsup by sitting in the office. The alleged notice under Section 21 of the Act was wrong and was liable to be withdrawn. The alleged affidavit dated 30.04.2017 regarding shortage of paddy was a forged and fabricated document. It was denied that respondents No.5 & 6 gave any guarantee on behalf of the respondent firm. They were not party to the arbitral clause or agreement. The other material averments raised in the petition were denied and a prayer for dismissal of the petition was made.

9. Respondent No.2 filed his separate written statement, wherein he took same pleas as taken by respondents No. 1, 3 & 4 in their written statement.

10. Respondents No.5 & 6 in their separately filed written statements alleged that they had not given any guarantee of the partners of respondent No.1 firm. The alleged guarantee deeds, if any, were

forged and fabricated documents. No liability could not fastened upon them and they were not liable to pay any amount to the petitioner.

11. On the basis of the pleadings of the parties, following issues were framed on 03.08.2018 by the predecessor court of Sh. K.K.

Goyal, learned Addl. District Judge, Ferozepur:-

1. Whether petitioner is entitled to injunction, as per the provisions of Section 9 of the Arbitration and Conciliation Act? OPA.
2. Whether the petition is not maintainable in its present form? OPR.

12. In order to prove its case, the petitioner examined Harpreet Singh, Senior Assistant of the office of Punsup, Ferozepur as AW1 and Kulwinder Singh, Advocate, Notary Public as AW2. Thereafter, counsel for the petitioner closed the evidence.

13. On the other hand, respondent No.5 Hardeep Singh stepped into the witness box as RW1. He also examined Sanjeev Sharma, Handwriting Expert as RW2. Thereafter, evidence of the respondents was closed by order.

14. I have heard the counsels for the parties and gone through

the record carefully. My findings on the aforesaid issues are as under:-

ISSUES NO.1 & 2

15. Both these issues are taken up together being interconnected and to avoid repetition of evidence and discussion.

16. In support of its claim, the petitioner examined Harpreet Singh, Senior Assistant of the office of Punsup, Ferozepur as AW1, tendered into evidence his affidavit Ex.AW1/A, in which he fully supported the averments made in the petition. He also produced in evidence photo copy of the partnership deed Ex.A1, photo copy of agreement dated 15.10.2016 Ex.A2, photo copy of receipt dated 20.12.2016 Ex.A3, photo copy of physical verification report Ex.A4, photo copy of cost sheet Ex.A5, copy of application moved to SSP, Ferozepur for registration of FIR against respondents No.2 to 4 Ex.A6, photo copy of guarantees deed Ex. A7 & Ex.A8, affidavit of respondent No.4 as Ex.A9, copy of notice under Section 21 of the Act Ex.A10, copy of letter dated 15.10.2018 written by respondent No.1 to D.M., Punsup, Ferozepur Ex.A11 and copy of jamabandi for the year 2015-16 Ex.A12.

17. AW2 Kulwinder Singh, Notary Public testified that

guarantee deed Ex.A7 was attested by him, regarding which an entry was made by him in his register at Serial No.1130 dated 08.10.2016 which was signed by Hardeep Singh and Sukhchain Singh. He photo copy of the relevant entry of his register as Ex. AW2/A.

18. On the other hand, respondent No.5 Hardeep Singh stepped into the witness box as RW1, who tendered into evidence his affidavit Ex. RW1/A, wherein he supported the defence taken by him in his written statement, already described in the foregoing paras of this order, stating that he never offered his land in guarantee nor he stood guarantor nor he executed any guarantee deed for respondents No.1 to 4 in favour of the petitioner. The alleged guarantee deed dated 08.10.2016 is a forged and fabricated document, which does not bear his signatures.

19. Respondent No.5 further examined Sanjeev Sharma, Handwriting Expert as RW2, who tendered into evidence his affidavit Ex.RW2/A, wherein he stated that he compared the disputed signature of Hardeep Singh on guarantee deed dated 08.10.2016 marked Q1 with the standard/specimen signatures of Hardeep Singh mark S1 to S8 and A1 to A4 and that he was of the opinion that the disputed signature

marked Q1 was not similar in its basic writing characteristics as compared to standard signatures and writings marked S1 to S8 and A1 to A4 as the disputed signature was the product of forgery by impersonation. He produced his report Ex.R1 and photographs Ex.R2 to Ex.R8.

20. After hearing both the sides and going through the evidence referred to above, it is found that respondents No.5 & 6 are not signatory to the agreement Ex.A2. Respondent No.5 Hardeep Singh has disputed his signatures on the guarantee deed Ex.A7 and in this regard, he has also examined handwriting and finger prints expert as RW2, who has opined that the signatures on the guarantee deed Ex.A7 are by way of forgery by impersonation. It was admitted during the course of arguments that arbitration proceedings had been initiated at Chandigarh before the Arbitrator. However, no award has been passed by the Arbitrator and the proceedings are still pending.

21. In view of the above facts and the further fact of dispute regarding guarantee deed Ex.A7, both these issues are decided against the petitioner and in favour of the respondents with liberty to the petitioner to file a similar petition for interim measure before the

Arbitral Tribunal.

RELIEF

22. As a result of my findings on issues No.1 & 2, the petition is dismissed with liberty to the petitioner to file a similar petition for interim measure before the Arbitral Tribunal. The parties are left to bear their own costs. File be consigned to record room, Ferozepur.

Announced in open Court
Dated : 06.12.2019.
anil

sd/-
(Gurnam Singh-II),
Addl. District Judge, Ferozepur.
(UID: PB0094)