
(2004) 05 P&H CK 0115
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 563 of 1984

Food Corporation of India

APPELLANT

Vs

Dhani Ram

RESPONDENT

Date of Decision : 05-05-2004

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 29 Rule 1

Citation : (2005) 1 BC 118 : (2005) 1 CivCC 159 : (2004) 138 PLR 248 : (2004) 3 RCR(Civil) 635

Hon'ble Judges : H.S. Bedi, J

Bench : Single Bench

Advocate : Rajesh Garg, for the Appellant; R.K. Chokkar, for the Respondent

Final Decision : Dismissed

Judgement

H.S. Bedi, J.—This petition is directed against the order of the District Judge, Hisar, dated 31.10.1983 whereby lie dismissed the appeal filed by the Food Corporation of India against the order dated 15.10.1982 of the Senior Sub Judge, Hisar holding that the appeal had not been filed by a duly authorised officer.

2. The facts of the case are that the petitioner-Food Corporation of India (hereinafter called the "Corporation") invited tenders for appointment of contractors. The respondent, Dhani Ram made an offer which was accepted by the Corporation. It appears that after working for some time, Dhani Ram stopped work mid-way, on which the Corporation got the work completed from its own sources. As the contract between the Corporation and Dhani Ram contained an arbitration clause, the matter was referred to the sole arbitration of Shri Sewa Singh Ahluwalia, retired District and Sessions Judge, Kalkaji, New Delhi. The respondent, Dhani Ram, appeared before the arbitrator at the initial stage, but thereafter absented himself, on which exparte proceedings were taken against him. The arbitrator continued with the proceedings but due to unavoidable circumstances he could not give the award within the statutory period of four

months. The Corporation thereafter moved an application u/s 28 of the Arbitration Act, 1940 for extension of time. This application was contested by Dhani Ram, on which the following issues were framed:-

1. Whether there is sufficient cause for extension of time? OPP
2. Whether the Civil Court has got no jurisdiction to try this application? OPR
3. Whether District Manager FCI Hissar has not been duly authorised or is competent to sign and file and plead on behalf of the petitioner? OPP
4. Relief.

3. The trial judge under issue No. 1 held that there was no cause for extension of time. Issue Nos. 2 and 3 were however, decided in favour of the Corporation but on account of the finding on issue No. 1, the application was dismissed. Aggrieved by this order, the Corporation filed an appeal before the District Judge, Hisar, who relying on the judgment of this Court in Food Corporation of India v. Sardarni Baldev Kaur and Ors.(1981)83 P.L.R. 110 held that the appeal filed by the District Manager was not maintainable as he was not competent to file the same. The appeal was accordingly dismissed on this short ground without any discussion on merits. It is in these circumstances that the present petition has been filed.

4. Mr. Rajesh Garg, the learned counsel appearing for the petitioner has referred to letter. Exh.P-5, issued by the Senior Regional Manager, Food Corporation of India authorising District Managers to file appeals and has argued that as the power has been delegated to the District Manager, the appeal filed by him before the District Judge was clearly maintainable.

5. I find that this aspect has been duly considered in the appellate order. In paragraph 5 of the afore-cited judgment, it is observed as under:-

"As regards the question as to whether the District Manager of the Food Corporation was competent to conduct the case on behalf of the Corporation the learned counsel for the petitioner has referred to the provisions of Order XXIX, Rule 1 CPC which prescribe that in suits by or against a corporation, any pleading may be signed and verified on behalf of the corporation by the Secretary or by any director or other principal officer of the corporation who is able to depose to the facts of the case. This provision nowhere empowers such an officer to conduct the case on behalf of the Corporation. In fact, only the limited power to sign and verify the pleadings has been conferred upon the officer."

6. A bare reading of Rule 1 of Order XXIX of the CPC would reveal that the question of delegation in such cases would not arise and the principal officer of the Corporation can himself file an appeal. Admittedly the Regional Manager was himself the principal officer and he could have filed the appeal and in the light of the judgment afore-quoted, the District Manager, though authorised by the Regional Manager, could not have filed the appeal so as to make it maintainable.

The revision petition is accordingly dismissed. There will, however, be no order to costs.