
(2000) 11 P&H CK 0049
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 4594 of 1997

M/s. Grewal Rice Mills

APPELLANT

Vs

Punjab State Co-operative Supply and Marketing Federation
Ltd.

RESPONDENT

Date of Decision : 09-11-2000

Acts Referred:

Arbitration Act, 1940 — Section 11, 14, 17
Contract Act, 1872 — Section 237

Citation : (2001) 1 RCR(Civil) 442

Hon'ble Judges : M.L. Singhal, J

Bench : Single Bench

Advocate : Mr. R.C.Setia and Mr. Sidharath Swaroop, for the Appellant; Mr. S.D. Bhalla, for the Respondent

Judgement

M.L. Singhat, J.—This is Civil revision filed by M/s Grewal Rice Mills, Kot Grewal Tehsil Phitlaur, District Jalandhar through its proprietor Gurdial Singh (hereinafter to be referred as "M/s Grewal Rice Mills") against the order dated 5.3.1997 of Additional District Judge, Kapurthala whereby he had dismissed their appeal against the order of Senior Subordinate Judge, Kapurthala dated 16.12.1993 ordering the award dated 2.6.1990 delivered by S. Tej Singh, IAS (Retd) to be made a rule of the Court in favour of The Punjab State Cooperative Supply and Marketing Federation Limited, Sector 17-C, Chandigarh respondent No. 1 (hereinafter to be referred as "Markfed").

2. On 3.11.1980 an agreement was entered into between the Markfed and M/s. Grewal Rice Mills whereby the latter agreed to convert paddy to be supplied by the Markfed into rice. There arose dispute between them regarding the said transaction and the dispute was referred to arbitration. S. Tej Singh, IAS was appointed arbitrator by Subordinate Judge 1st Class, Kapurthala vide order dated 23.1.1990 in accordance with clause "Arbitration" of the Arbitration. Agreement dated 3.11.1980 was signed by Rana Baljit Singh Grewal in his capacity as manager of M/s Grewal Rice Mills. Before the arbitrator, Markfed appeared. M/s.

Grewal Rice Mills appeared through Rana Baljit Singh. Before the arbitrator both Markfed and M/s Grewal Rice Mills put in claims/counter claims. Award was given by the arbitrator on 2.6.1990. Before the arbitrator, Markfed led evidence. M/s Grewal Rice Mills through Rana Baljit Singh led evidence. Mark-fed was represented by a counsel. M/s Grewal Rice Mills was also represented by a counsel engaged by him (Rana Baljit Singh). Before the arbitrator, M/s Grewal Rice Mills through Rana Baljit Singh stoutly contested the claims of the Markfed and supported their own counter-claims. Throughout the arbitration proceedings, M/s Grewal Rice Mills was represented through Rana Baljit Singh. Arbitrator gave award.

3. An application was under Sections 14/17 of the Arbitration Act before the Senior Subordinate Judge, Kapurthala for directing the arbitrator to file the award and making it a rule of the Court. Arbitrator filed the award before the Court.

4. Senior Subordinate Judge, Kapurthala dismissed objections and ordered the award to be made a rule of the Court vide order dated 16.12.1993. M/s Grewal Rice Mills through its proprietor Gurdial Singh went in appeal which was dismissed vide order dated 5.3.1997 by Additional District Judge, Kapurthala.

5. Not satisfied with this order dated 5.3.1997 of Additional District Judge, Kapurthala M/s Grewal Rice Mills through its sole proprietor Gurdial Singh has come up in revision to this Court.

6. I have heard Sh. R.C. Setia, Sr. Advocate for the pe-titioner-M/s Grewal Rice Mills through Gurdial Singh and Sh. S.D. Bhalla, Advocate for the Markfed.

7. It was submitted by Sh. Setia, learned Sr. Counsel for M/s. Grewal Rice Mills that Rana Baljit Singh had nothing to do with M/s Grewal Rice Mills. M/s Grewal Rice Mills was the sole proprietorship of Gurdial Singh and it was Gurdial Singh who could represent M/s Grewal Rice Mills. It was submitted that M/s Grewal Rice Mills had been wrongly held to have been properly represented by Rana Baljit Singh. It was submitted that he was Manager with M/s Grewal Rice Mills and had resigned in 1985. After 1985, he had no concern with M/s Grewal Rice Mills. It was submitted that Rana Baljit Singh's counsel had categorically stated before the arbitrator that he was not appearing on behalf of M/s Grewal Rice Mills. It was submitted that the Court wrongly held that because Rana Baljit Singh had previously represented the firm before the arbitrator Sh. G.S. Bhatia, he could not later on say before the arbitrator S. Tej Singh, I AS (Retd.) that he was not representing M/s Grewal Rice Mills. It was submitted that Rana Baljit Singh had not been authorised by Gurdial Singh to represent M/s Grewal Rice Mills which was his sole proprietorship and that the arbitrator took no steps to summon Gurdial Singh, who was sole proprietor of M/s Grewal Rice Mills.

8. Sh. S.D. Bhalla, learned counsel for the Markfed on the other hand submitted that Rana Baljit Singh is party to the agreement dated 3.11.1980 executed between the Markfed and M/s Grewal Rice Mills wherethrough M/s Grewal Rice

Mills undertook to convert the paddy to be supplied by the Markfed into Rice. It was submitted that Rana Baljit Singh signed that agreement for M/s Grewal Rice Mills as its Manager. M/s Grewal Rice Mills began to convert paddy supplied by the Markfed into rice. It was also submitted that it is true that there was no express authority in favour of Rana Baljit Singh by Gurdial Singh authorising him to act before the arbitrator for M/s Grewal Rice Mills of which Gurdial Singh was the sole proprietor. He submitted that it is equally true that there could be implied authority also authorising Rana Baljit Singh to act on behalf of M/s Grewal Rice Mills, the sole proprietor of which was Gurdial Singh before the arbitrator. It was submitted that the authority to act could be express as well as implied and it can be inferred from the conduct of the person whether there was any implied authority. In support of this submission, he drew my attention to Section 237 of the Indian Contract Act, 1872 which reads as under:

"237 Liability of principal inducing belief that agent's unauthorized acts were authorized

When an agent has, without authority, done acts or incurred obligations to third persons on behalf of his principal, if he has by his words or conduct induced such third persons to believe that such acts and obligations were within the scope of the agent's authority."

9. It was submitted that if there had been no authority in favour of Rana Baljit Singh by Gurdial Singh, it should be inferred in this case that Gurdial Singh would have appeared before the arbitrator and said that Rana Baljit Singh had nothing to do with the affairs of M/s Grewal Rice Mills and that his appearance and participation in the arbitration proceedings before the arbitrator was non est so far as M/s Grewal Rice Mills is concerned. It was submitted that earlier, Sh. G.S. Bhatia was the arbitrator before whom Rana Baljit Singh was appearing as representative of M/s Grewal Rice Mills. After the removal of Sh. G.S. Bhatia from the arbitratorship of this case, S. Tej Singh was appointed as arbitrator. Before S. Tej Singh arbitrator also, Gurdial Singh never appeared. He never raised any objection that Rana Baljit Singh was no body so far as M/s Grewal Rice Mills was concerned and that his appearance and participation in the arbitration proceedings was non est. It was submitted that from this conduct of Gurdial Singh it can very well be inferred that Gurdial Singh had authorised Rana Baljit Singh who is not a stranger to him but his son to appear before the arbitrator, participate in the arbitration proceedings and look after the interest of M/s Grewal Rice Mills before the arbitrator. It was submitted that even if Rana Baljit Singh had resigned from the managership of M/s Grewal Rice Mills in the year, 1985, the implied authority given to him by his father Gurdial Singh to continue to appear and participate before the arbitrator did not lapse. It was also submitted that if it had been so, Gurdial Singh could appear before the arbitrator and say that Rana Baljit Singh has ceased to be Manager of M/s Grewal Rice Mills of which he is the sole proprietor and as such he will take over the conduct of arbitration so far as M/s Grewal Rice Mills is concerned. Gurdial Singh never did

it. He allowed the arbitrator to carry on arbitration proceedings and take them to their logical end.

10. It was submitted by Sh. S.D. Bhalla, Advocate for the Markfed that before the Sub Judge 1st Class, Kapurthala Rana Baljit Singh had made an application u/s 11 of the Arbitration Act for the change of arbitrator nominated by the respondent-Markfed and before Sub Judge 1st Class, Kapurthala, Markfed submitted in writing accepting the offer of Rana Baljit Singh regarding the change of arbitrator nominated by the Markfed. Statement of Rana Baljit Singh was recorded and S. Tej Singh, IAS (Retd.) was appointed arbitrator in place of Sh. G.S. Bhatia - the previous arbitrator. It was submitted that this shows that Rana Baljit Singh was fully cognizant of the interest of M/s Gre-wal Rice Mills. It was submitted that if Rana Baljit Singh had resigned from the managership of M/s Gre-wal Rice Mills in the year 1985, notice thereof should have been given to Markfed. When no notice was given to the Markfed to this effect, Gurdial Singh is es-lopped from raising this plea at a highly belated stage. It was submitted that Gurdial Singh had all along been accepting what Rana Baljit Singh had done before the arbitrator and it was after he had failed to secure the setting aside of the award that he turned round and said that Rana Baljit Singh was no body and he could not represent M/s Grewal Rice Mills before the arbitrator of which he (Gurdial Singh) was the sole proprietor.

11. Before (he arbitrator, Markfed examined PW-1 Sh. Amrik Singh, District Manager, Markfed, Kapurthala, PW-2 R.C. Sharnna, Field Assistant (attached to Phag-wara Branch of Kapurthala District in the year 1980), and PW-3 Hemant Suri, Assistant Accountant in Distt-Office Markfed, Kapurthala. These witnesses were cross-examined at length by Rana Baljit Singh/Ravin-der Arora, Advocate before the arbitrator. He examined Ajaib Singh DW-1, Mohinder Singh DW-2 and Ashok Kumar DW-3. Besides he put himself into the witness box. Evidence produced by him shows that he contested the claim of the Markfed to the hilt and he pressed the counter-claims of M/s Grewal Rice Mills to the hilt. He is son of Gurdial Singh. Why should Rana Baljit Singh have colluded with the Markfed and acted to the detriment of his father's interest ? He submitted written arguments also before the arbitrator re-fuling the claim of the Markfed and pressing the counter-claims of M/s Grewal Rice Mills.

12. The studied silence of Gurdial Singh in not raising even a little finger against what was being done by his son before the arbitrator for 7 long years suggests that he had given him implied authority to represent M/s Grewal Rice Mills. Before the arbitrator, M/s Grewal Rice Mills did not readily appear. It was only through publication effected in the Tribune that Rana Baljit Singh appeared before the arbitrator as representative of M/s Grewal Rice Mills. If Rana Baljit Singh could appear before the arbitrator in pursuance of the publication effected in the Tribune, Sh. Gurdial Singh could also appear and say that he is the sole proprietor of M/s Grewal Rice Mills and as such he will represent M/s Grewal Rice Mills.

In the facts and circumstances of the case, I find that Rana Baljit Singh appeared before the arbitrator and continued appearing before him as representing M/s Grewal Rice Mills of which the sole proprietor was his father-Gurdial Singh under an implied authority from his father. I do not find reason to allow the objections and set aside the award. So, this revision fails and is dismissed. No order as to costs.

13. Revision dismissed.