

UNION OF INDIA AND ORS. ETC. ETC.

v.

M/S. KUNDAN RICE MILLS LTD.

(Civil Appeal Nos. 6457-58 of 2008)

NOVEMBER 03, 2008

**[DR. ARIJIT PASAYAT AND DR. MUKUNDAKAM  
SHARMA, JJ.]**

*Practice and procedure – Interim matters – Adjudication of – Categorical finding on merits by High Court – Propriety of – Held: Not proper – It was not the stage of doing so and was beyond the scope of adjudication of writ petition – Thus, order of High Court set aside – High Court to hear the matters afresh – Constitution of India, Article 226.*

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 6457-6458 of 2008.

From the Judgment and Order dated 5.9.2008 and 4.10.2008 of the High Court of Punjab and Haryana at Chandigarh in CWP No. 13914 of 2008 and COCP No. 1536 of 2008 in CWP No. 13914 of 2008.

Gopal Subramaniam, A.S.G., Harish Chandra, Rahul Kaushik, Ameet Chander and Anil Katiyar for the Appellants.

Mukul Rohtagi, S. Ganesh, Reetesh Singh. Janvi Wora, Pranav Vyas and Surya Kant for the Respondents.

The Judgment of the Court was delivered by

**DR. ARIJIT PASAYAT, J. 1. Heard.**

2. Though these matters were listed for admission, learned counsel for the parties requested the matters to be taken up for final disposal.

3. Leave granted.

- A 4. We find that while adjudicating an interim matter, the High Court has given a categorical finding on merits holding inter-alia that there is nothing to show that even prima facie, goods are liable to confiscation. The High Court appears to have decided the matter on merits finally even though that was
- B not the stage for doing so and was beyond the scope of adjudication of the writ petition. This is not the way the High Court should have dealt with the matter. Apart from that, the High Court has not indicated any reason as to why the condition of execution of indemnity bond equivalent to seizure value of
- C goods and/or furnishing of bank guarantee equal to 10% of value of goods, as was stipulated by the authorities, was not justified. This also adds to the vulnerability of the order. We set aside the impugned orders of the High Court. Let the High Court hear the matters afresh. To avoid unnecessary delay, let
- D the parties appear before the High Court, without further notice, on 17.11.2008.

5. The Hon'ble Chief Justice of the High Court is requested to allot the matters, i.e. CWP No.13914/2008 and COCP No.1536/2008 to an appropriate Bench.

- E 6. The appeals are disposed of accordingly.

N.J.

Appeals disposed of.