

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Regular Second Appeal No.1292 of 1989 (O&M)
Date of Decision: 29th July, 2015

M/s Ganga Bishan and Anr.

...Appellants

Versus

Rajinder Kumar & Anr.

...Respondents

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr.H.P.S.Sandhu, Advocate,
for the appellants.

Mr.Rishav Jain, Advocate, for
Mr.Arihant Jain, Advocate,
for respondent No.1.

1. Whether Reporters of Local papers may be allowed to see the judgment? *Yes*
2. To be referred to the Reporters or not? *Yes*
3. Whether the judgment should be reported in the Digest? *Yes*

Naresh Kumar Sanghi, J.(Oral)

The present regular second appeal has been filed by M/s Ganga Bishan and Sons and Others challenging the judgment and decree dated 15.02.1989, passed by learned Additional District Judge, Faridkot, whereby the appeal filed by the respondent- plaintiff was allowed and the judgment and decree passed by learned Sub Judge Ist Class, Moga, dismissing the suit of the plaintiff for recovery of ₹ 14,370/- (Rupees fourteen thousand three hundred and seventy only) was set aside.

The only argument raised by learned counsel for the appellant is that at the appellate stage, the respondent/ plaintiff

was permitted to lead additional evidence and without appreciating the material available on record the judgment and decree of learned trial court was set aside.

On the other hand, learned counsel for the respondent-plaintiff submits that in view of the amendment in Section 102, CPC, the present appeal is not maintainable. To elaborate his arguments he submits that where the value of recovery suit is less than of ₹ 25,000/- (Rupees twenty five thousand only) then the regular second appeal is not maintainable.

I have heard learned counsel for the parties and with their able assistance gone through the material available on record.

The facts of the case are enshrined in para no.2 of the judgment passed by learned Additional District Judge, Faridkot, therefore, this Court does not deem it necessary to repeat the same.

Section 102 of the Code of Civil Procedure, 1908, reads as under:-

“102. No second appeal in certain cases.- No second appeal shall lie from any decree, when the subject matter of the original suit is for recovery of money not exceeding twenty-five thousand rupees.”

In the present case a suit for recovery of ₹ 13,756/- (Rupees thirteen thousand seven hundred and fifty-six only)

along with interest at the rate of 18% per annum was filed by the respondent-plaintiff against the appellant. Learned trial court dismissed the suit but the said judgment was set aside and it was held that the respondent/plaintiff was entitled to ₹ 10,664/- (Rupees ten thousand six hundred and sixty-four only) along with interest at the rate of 6% per annum from 17.09.1982 till the decretal amount is realized.

As per **Haryana Dairy Development Cooperative Federation Limited v. Jagdish Lal**, (2014) 3 SCC 156, Hon'ble the Supreme Court held as under:-

“1. In spite of the fact that Parliament has amended the Code of Civil Procedure, 1908 altering the provisions of Section 102 CPC providing that money recovery suit involving less than ₹25,000/- shall not be entertained in the second appeal, we are being burdened with cases where the litigation cost may be hundred times more than the amount involved. It has become the definite attitude of the officials not to take any responsibility even for petty issues and would waste public money approaching this Court. The Government departments would spend any amount on litigation instead of paying petty amount to the other party.

2. In the instant case, an amount of ₹8,724/- is to be paid to the respondent employee as reimbursement of his medical claim and the petitioner, Haryana Dairy Development Cooperative Federation Limited treating

the litigation as luxury must have spent the amount already by filing this petition more than the total amount involved herein.

3. *Many a time this Court has felt unhappy about the time of the Court being taken for days together by petty matters. (The Constitution Bench judgment in Sukhdev Singh Vs. Bhagatram Sardar Singh Raghuvanshi, AIR 1975 SC 1331).*

4. *In Kadra Pahadiya and Others Vs. State of Bihar, AIR 1997 SC 3750, this Court observed that:*

“ If the load of such petty cases is taken out of the regular Courts, those Courts would have time to deal with more serious crimes rather than have their time consumed by such petty cases.”

5. *The Law Commission of India in its 145th Report has observed that what further agitates is the number of pending litigation relating to trivial matters or petty claims, some of which have been hanging for more than fifteen years. It hardly needs mention that in many such cases money spent on litigation is far in excess of the stakes involved, besides wasting valuable time and energy of the parties concerned as well as the Court.*

6. *We direct that the expenses of the litigation shall be incurred by the Managing Director personally who has signed affidavit in support of the petition and it shall not be taken from the Federation. A copy of the order be sent to the learned Chief Secretary of the State of Haryana as well as to the Managing Director.*

7. *The special leave petition is dismissed. In*

view of the above, question of law, if any is kept open.”

Similarly, this Court in the matter of **Gurudawara Singh Sabha v. Uttar Haryana Bijli Vitran Nigam Limited and another** (RSA-4972-2012, decided on 21.05.2014) held as under:-

“ Plaintiff-appellant filed a suit for declaration to the effect that the demand of ₹17,357/- raised by the respondent as arrears of electricity consumption charges is bad, illegal and not binding upon his rights seeking further consequential relief of permanent injunction restraining the defendant-respondents to disconnect the electricity connection from its premises.

The suit was contested by the defendant-respondents on the ground that demand was raised legally for the outstanding amount against the appellant.

Both the Courts below on appreciation of evidence recorded a concurrent finding against the appellant holding that demand of ₹17,357/- as arrears of electricity consumption charges was based on the record i.e. audit report etc.

Challenging the aforesaid judgments and decrees of the Courts below, learned counsel for the appellant has vehemently argued that the impugned judgments and decrees of the Courts below are liable to be set aside as both the Courts below have ignored the fact that before raising the demand, no notice was issued to the appellant and thus, he was condemned unheard.

Be that as it may, keeping in view the meagre amount involved in the suit itself and keeping in view the provisions of Section 102 CPC, this Court is not inclined to interfere in the impugned judgments and decrees of the Courts below observing that substantial questions of

law, as raised, do not arise.

At this stage, it is also useful to refer to the observations of Hon'ble the Supreme Court in the case of Haryana Dairy Development Cooperative Federation Limited vs. Jagdish Lal (2014) 3 SCC 156 wherein the fact has been noticed that superior Courts are burdened and choked with unnecessary litigation on petty issues. Dismissed.”

In view of the amendment in Section 102, C.P.C., and the ratio of the judgments cited above and further considering that no substantial question of law arises for consideration in favour of the appellant, the present regular second appeal fails and the same is hereby dismissed

July 29, 2015
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(Naresh Kumar Sanghi)
Judge