

IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

Date of Decision: 11.02.2015

RSA No.3059 of 1997

Jagdish Chander

...Appellant

Versus

The Food Corporation of India & another

...Respondents

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA

Present: Mr. Varun Bath, Advocate, for
Mr. Ramesh Kumar, Advocate, for the appellant.

Mr. Arun Walia, Senior Advocate, with
Mr. Servedaman Rathore, Advocate, for the respondents.

HEMANT GUPTA, J. (ORAL)

The plaintiff is in second appeal aggrieved against the judgment and decree passed by the Courts below, whereby his suit for permanent injunction restraining the defendants from re-auctioning the wooden crates already auctioned on 30.07.1986 in favour of the plaintiff and for mandatory injunction directing the defendants to deliver 9206 wooden crates as per aforesaid auction, was dismissed.

At the time of motion hearing on 14.01.1998, the following argument raised was recorded on behalf of the plaintiff-appellant:

“It is conceded by the learned counsel for the appellant that the goods have already been sold and, therefore, the suit for injunction for re-auctioning the wooden crates already auctioned in favour of the plaintiff, is not maintainable. However, he states that the defendant-Corporation is not entitled to raise a demand of storage charges.”

Mr. Arun Walia, learned senior counsel representing the defendant-Corporation, points out that the defendant-Corporation filed a suit

for recovery of Rs.6,72,377.08 against the plaintiff on account of the loss suffered for not complying the contract. The trial Court vide judgment and decree dated 09.01.1996 decreed the suit for recovery of the aforesaid amount with pendent-lite and future interest @ 6% per annum on the principal amount. The said judgment and decree was not disputed by the present plaintiff by way of appeal.

Having heard learned counsel for the parties, I find that since the relief was only for permanent injunction not to recover the amount, whereas the suit for recovery filed by the defendant-Corporation stands decreed, no substantial question of law arises for consideration in the present suit for permanent injunction.

Consequently, the present appeal is dismissed.

(HEMANT GUPTA)
JUDGE

11.02.2015
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