

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

RSA No.125 of 2009 (O&M)

Date of decision: 18.08.2015

Jarnail Kaur and others

..... Appellants

versus

Karnail Singh and others

..... Respondents

CORAM: Hon'ble Mr. Justice Kuldeep Singh

Present: Mr.V.B.Aggarwal, Advocate for the appellants

1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?

2. To be referred to the Reporters or not ?

3. Whether the judgment should be reported in the Digest?

Kuldeep Singh, J. (Oral)

Impugned in the present Regular Second Appeal is the judgment and decree dated 28.8.2008, passed by the learned Additional District Judge, Kurukshetra, decreeing the suit of the plaintiff for recovery of Rs.59,890/- along with 9% interest from the date of filing of suit till its realization, reversing that of learned Civil Judge, Senior Division, Kurukshetra dated 13.6.2007

The facts necessary for the purpose of disposal of the present appeal are that the plaintiff had filed a suit against the defendants claiming that he was engaged as an agricultural labourer @ 125/- per day and night. He worked from 1.9.1998 to 31.7.2001. His total wages comes to Rs.79,890/-, out of which he was paid Rs.20,000/- during the said period and balance of Rs.59,890/- have not been paid. Plaintiff had moved the Labour Inspector for recovery

of the said amount. But defendant did not pay the amount. It was also claimed that the Labour Court had got no jurisdiction in the matter. Hence he was compelled to file the suit.

In the written statement, the defendants have taken a stand that plaintiff was never engaged as labourer in their fields. Therefore, question of payment of wages never arises.

Learned Civil Judge, Senior Division dismissed the suit holding that it is not proved that the plaintiff worked as a labourer. Plaintiff preferred an appeal before the learned Additional District Judge, which came to the conclusion that the plaintiff did work as a labourer in the fields of the defendants and consequently, the findings were reversed.

I have heard learned counsel for the appellants. None has appeared for the plaintiff/respondent No.1. Therefore, case of respondent No.1 has been considered. I have also gone through the judgments of both the Courts below.

It is a case of recovery of wages claiming that the plaintiff was an agricultural labourer. For the recovery of wages, the jurisdiction is with the Asstt. Labour Commissioner by moving an application under minimum wages Act. However, no such application was filed. Even before the Civil Court, there was oral evidence of the parties. Plaintiff claimed that he was employed as labourer, whereas defendant denied the same. Therefore, it was oral versus oral evidence. There was absolutely no documents on file to show that the plaintiff ever worked as a Labourer with the defendants or that he was paid Rs.20,000/- which could have strengthened the case of the

plaintiff that he was working as a Labourer. As such, oral evidence was rightly disbelieved by learned Civil Judge, Senior Division and the interference by the appellate Court on the findings of fact is not justified.

The mere fact that defendant has the agricultural land and that claimed that they employed labourers on daily wages, does not mean that the plaintiff was also employed on daily wages.

It being so, the appeal is allowed and the impugned judgment and decree passed by the learned Additional District Judge, Kurukshetra dated 28.8.2008 is hereby set aside and that of learned Civil Judge, Senior Division, Kurukshetra dated 13.6.2007 is restored.

In view of disposal of the appeal, all applications pending also stand disposed of.

18.08.2015
gk

(Kuldip Singh)
Judge