

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

RSA No. 1374 of 2010 (O&M)
Date of Decision : 24.09.2015

Bharat Sanchar Nigam Limited through its Assistant General Manager (Legal), Sh. O.P. Gupta, O/o General Manager, Telecom, BSNL, Karnal.

....Appellant

Versus

Satpal Gupta C/o Jagdamba Foods Ltd, Subhash Mandi, Taraori, the. Nilokheri, District Karnal.

....Respondent

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Madan Mohan, Advocate
for the appellant.

Mr. P.S. Rana, Advocate
for the respondent.

Surinder Gupta, J.

After having lost the suit for recovery of ₹ 1,24,078/- on the ground that the suit was barred by limitation, Bharat Sanchar Nigam Ltd. (BSNL) filed second appeal (RSA No. 1374 of 2010) which was allowed on 10.01.2012 and the suit was held to be within limitation. The judgments and decrees passed by both the Courts below were set aside and plaintiff-appellant was allowed a decree with costs through out for recovery of ₹ 1,24,078/- alongwith interest @ 9% per annum from the date of filing of suit till the date of decree of the trial Court and 6% per annum from the date of decree of trial Court till recovery. Not satisfied, the defendant-respondent-Satpal Gupta preferred petition for Special Leave to Appeal before the Apex Court, which

was disposed of with observation as follows:-

“We find no error in the view taken by the High Court on the question of limitation. However, we notice that other contentions/issues raised, which are not examined on merits.

Under such circumstances, we remit the matter to the High Court to decide those issues, except the issue relating to limitation.

The special leave petition is disposed of.”

2. As per direction contained in the above order of the Apex Court, the appeal was taken up again.

3. I have heard learned counsel for the parties.

4. Learned counsel for the plaintiff-appellant has argued that the Civil Judge (Junior Division), Karnal while recording finding on issue no. 1 had held that the defendant-respondent is liable to pay a sum of ₹ 1,24,078/- on account of usage of telephone. Against this finding of learned Civil Judge (Junior Division), Karnal, Satpal Gupta-defendant-respondent filed no appeal and finding to this effect has attained finality. This Court while deciding RSA No. 1374 of 2010, has rightly decreed the suit for recovery of ₹ 1,24,078/- with future interest.

5. Learned counsel for the defendant-respondent while conceding that no appeal against finding of trial Court that the defendant-respondent is liable to pay ₹ 1,24,078/- was filed, has argued that the Courts below have not allowed any *pendente lite* or future interest, as such, the plaintiff-appellant could not be allowed any interest in this appeal.

6. While recording the finding on issue no. 1, as to whether plaintiff-appellant is entitled to a decree for recovery of

₹ 1,24,078/-, learned Civil Judge (Junior Division) recorded finding that the defendant is liable to pay this amount. The plaintiff had also claimed *pendente lite* and future interest on this amount in the suit. As the suit was dismissed with the finding that the same was barred by limitation, relief of recovery of due amount alongwith *pendente lite* and future interest was declined.

7. This appeal is in continuation of the suit. The finding of learned trial Court that a sum of ₹ 1,24,078/- was due against the defendant-respondent, has attained finality. The plaintiff-appellant, being a Corporation indulging in commercial activities, is entitled to *pendente lite* and future interest on the due amount.

8. Learned counsel for the appellant has submitted that he has no other contention or issue to raise in this appeal. Learned counsel for the respondent has also not raised any other issue.

9. In view of the above, the appeal is accepted and judgments and decrees of both the Courts below are set aside and the suit filed by the plaintiff-appellant is decreed with costs throughout alongwith interest @ 9% per annum w.e.f. the date of filing of suit till the date of decree in their favour and 6% per annum from the date of decree till the date of recovery.

September 24, 2015
jkk

(SURINDER GUPTA)
JUDGE