

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

RSA No. 3081 of 2010 (O&M)

Date of decision : 7.9.2015

M/s Radhika Prints

... Appellant

versus

Punjab State Electricity Board

... Respondent

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. Vaibhav Sahni, Advocate, for the appellant.

Rajesh Bindal, J.

The plaintiff is in second appeal against concurrent findings of fact recorded by both the Courts below whereby the suit filed by him for declaration and permanent injunction was dismissed.

The judgment of the learned Lower Appellate Court is dated 2.12.2009. The appeal was filed in this Court on 6.3.2010. It was listed in the Court for the first time on 24.12.2010. Various orders passed, ever since the appeal was listed in this Court, are extracted below:-

24.12.2010

“Learned counsel for the appellant prays for adjournment as the arguing counsel is in personal difficulty.

Adjourned to 14.03.2011.”

4.3.2011

“Learned counsel for the appellant prays for adjournment as the arguing counsel is not well.

Adjourned to 14.7.2011.

Last opportunity.”

14.7.2011

“Adjourned to 24.08.2011 for arguments, at the request of counsel for the appellant.”

24.8.2011

“In the interest of justice, the appeal is adjourned to 20.10.2011 for arguments.”

19.1.2012

“On request, adjourned to 24.04.2012.”

24.4.2012

“On request, adjourned to 4.9.2012.”

4.9.2012

“Learned counsel for the appellant prays for adjournment as the arguing counsel is not available.

List on 15.02.2013.”

15.2.2013

“On request, adjourned to 05.09.2013.”

5.9.2013

“Since none has caused appearance for the appellant, hearing is deferred to 25.3.2014.”

25.3.2014

“On request, adjourned to 21.07.2014.”

23.9.2014

“In view of adjournment slip circulated by counsel for the appellant, adjourned to 02.03.2015. Last opportunity is provided to make submissions.”

2.3.2015

“On request, adjourned to 4.3.2015.”

4.3.2015

“Mr. Chhibbar has handed over the statement of DW1 Gurmukh Singh Randhawa appearing as a witness for PSEB. The statement was recorded on 17.3.2008 after DW1 had retired. A perusal of the same reveals that the witness has not made the statement with absolute clarity and, therefore, this Court feels that a perusal of the record of the trial court including depositions of other witnesses as well as report DW1/1 requires to be examined. LCR is ordered to be

requisitioned at the expense of the appellant. The expenses for requisitioning the record be deposited in the Registry as per rules.

Mr. Chhibbar has brought to the notice of this Court the Full Bench decision in *M/s Ranbaxy Laboratories Limited v. Punjab State Electricity Board, Patiala*; 2004 (2) PLR 101 explaining the Supreme Court decision in *Ashwani Kumar's* case, the photocopy of which be appended at the end of the paperbook.

Adjourned to 23.4.2015.”

23.4.2015

“Submits that due to oversight, expenses could not be deposited. Let the needful be done within 7 days upon which LCR be called for.

Adjourned to 21.5.2015.”

21.5.2015

“Learned counsel for the appellant prays for some more time to comply with the previous order.

Adjourned to 17.7.2015.”

17.7.2015

“Submits that their office was not aware whether the LCR requisitioned by this Court had been received though there is a note on the opening sheet of this case which indicates that LCR has been received. Time is granted to the learned counsel to verify the position and to inspect the record before making submissions.

List again on 7.9.2015.”

Today when the case was taken up for hearing, a request for adjournment was made. The same was declined considering the fact that the appeal pertaining to the year 2010 was pending in motion hearing without even notice having been issued to the respondent.

A request for pass over was accepted. When the case was taken up at second call, the arguing counsel was still not available. As no arguments have been addressed, the appeal is dismissed. Reference can be

made to judgment of Hon'ble the Supreme Court in Poonam vs Sumit Tanwar, 2010 (4) SCC 460.

7.9.2015
vs

(Rajesh Bindal)
Judge