IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Regular Second Appeal No.1447 of 2011 (O&M)
Date of decision:14.09.2015

The Punjab Small Industries and Export Corporation Limited Batra Building, Sector 17, Chandigarh.

... Appellant

versus

M/s Jain Hans Paper and Mill Board Industries and another.

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Gaurav Rana, Advocate,
for Mr. H.S. Brar, Advocate,
for the appellant.

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1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ?No.
3. Whether the judgment should be reported in the digest ? No.

K.Kannan, J.

1. That defendant is the appellant before this court. The plaintiff was an allottee of industrial plot underlease cum sale basis. The allotment was made in the year 1979 and the stipulations in the letter of allotment provided for payment of the sale consideration in a particular fashion providing for a period before when the amount had to be paid, the initial amount liable to be paid, the entitlement to subsidy from government, the effect of delayed payment, etc. Since the allotment was for setting up of an industry that would help foster

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industrial growth within the state, there was an incentive for the allottee to pay only 20% of the sale price and the balance amount could be claimed by way of subsidy from the state.

2. Admittedly, the plaintiff had paid the 20% of the total amount and when the subsidy had not been realised, the appellant-Corporation was taking steps to have the allotment cancelled. In the previous round of litigation, the plaintiff had fought successfully the attempt of the defendant to cancel the allotment and the civil court had held that the plaintiff could not be attributed with any laches and decreed the suit. The decision had become final. The present suit came to be filed when there was a repeat of what was previously done and when the allotment were sought to be cancelled by issue notice and demanding certain sums which the plaintiff claimed was not payable by him. The trial court relied on the decree that was already passed and also found that under the terms of the allotment and lease, the corporation had a right to demand and secure to itself the subsidy from the government. The trial court reasoned that the subsidy would be denied to the plaintiff only under 2 conditions: one, if the plaintiff was found not eligible to receive the subsidy in a situation where the claim of the corporation had been repudiated or by the State of Punjab government or on any account whatsoever. The court held that it was not the case of the defendant that the plaintiff had been found is not eligible to receive the subsidy. On the

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other hand, there was evidence on record that a portion of the subsidy amount had already been released through a letter of the director of industries under Ex. P17. Two, subsidy could be denied when the plaintiff had committed any default and rendered himself incapable of realising the subsidy. The plaintiff had already been paid a part of the subsidy but had not been favoured with the balance on the inability of the state to pay and not for any lapse on the part of the plaintiff. The trial court therefore observed that it was open under the terms of the letter of allotment and lease for the corporation to realise subsidy. A witness examined on the side of the corporation had clearly admitted that they had not taken any steps to realise subsidy. On the other hand, the witness was only attempting to say that it was the duty of the plaintiff to claim the subsidy and made over the payment to the corporation.

3. Having found that the was no fault on the part of the plaintiffs in not securing the balance of sale consideration, it held that the show cause notice issued on 15.10.1998 which was impugned in the suit was bad and the demand made through the letter dated 25.09.1998 was null and void. Consequently the order cancellation of the plots in question was set aside. As regards the cost of enhanced price was concerned, the stand taken by the plaintiff was that thedefendant could not claim cost enhancement because there never gave any notice to the plaintiff in that regard.

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The trial court did not accept the same and found that the plaintiff was liable to pay the cost enhancement along with interest thereupon. When the matter was before the appellate court it was also noticed from records that the amount which was due and payable by way of enhancement along with interest had been paid by the plaintiffs. On a challenge to the trial court's judgement by the corporation, the appellate court found that the was no error in the judgement of the trial court.

4. I find that the issue for adjudication has been properly dealt with by the trial court and affirmed by the appellate court. I've also attempted to see from the grounds whether anything substantial is made. The grounds of appeal are pathetically general and even the substantial questions of law which are proposed by the plaintiff mean nothing. There indeed exists no substantial question of law for consideration. The second appeal is dismissed.

(K.KANNAN)
JUDGE

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