

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.1833 of 2012 (O&M)
Date of Decision: August 04, 2015

Haryana Agro Industries Corporation Ltd. and another
 ...Appellants

Versus

M/s Jora Singh & Company and others
 ...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Pankaj Gupta, Advocate
 for the appellants.

Mr.Suveer Sheokand, Advocate
 for respondents No.1 and 2.

INDERJIT SINGH, J.

Appellants-defendants No.1 and 2 Haryana Agro Industries Corporation Ltd. and District Manager, Haryana Agro Industries Corporation Ltd. have filed this regular second appeal against respondents-plaintiffs M/s Jora Singh @ Company and Jora Singh and proforma-respondents Deputy Commissioner, Jind, District Food and Supplies Controller, Jind and State of Haryana through Collector, Jind, challenging the impugned judgment and decree dated 07.08.2010 passed by learned Addl. Civil Judge (Senior Division) Jind, vide which the suit of the plaintiffs for declaration and mandatory injunction was decreed and also the judgment and decree dated 04.01.2012 passed by learned District Judge, Jind, vide which the

appeal filed by appellants-defendants No.1 and 2 was dismissed.

The brief facts of the case are that plaintiffs-respondents M/s Jora Singh & Company and Jora Singh filed a suit against defendants Haryana Agro Industries Corporation Ltd. and others, for declaration regarding the right of the plaintiffs to claim payment for performance of the contract assigned to them. They sought that order of deduction of ₹1,71,556/- be declared as illegal, void and unjustified and further the plaintiffs are entitled to recovery of ₹1,71,556/- and ₹80,000/- on account of security which has been withheld by the defendants illegally. Main case of the plaintiffs is that the Director, Food and Supplies, Govt. of Haryana constituted a District Level Committee headed by Deputy Commissioner for inviting tenders for labour contract regarding loading and transportation of agricultural produce from Mandi to Godowns. Defendant No.1 was allotted the work of procurement of wheat from Narwana Mandi and tender for labour work for transportation of wheat from Mandi to godowns was granted to the plaintiff by District Level Committee. The plaintiff deposited the security amount of ₹80,000/- with the District Manager of Haryana Agro. Haryana Agro in turn was supposed to give ex-godown delivery of agricultural produce to FCI. The duty of the plaintiff was only regarding loading of wheat etc. However, the vehicle for transportation and unloading of the vehicle at Railway Station was to be done by FCI. The plaintiffs performed their duties honestly and completely. However, the defendants deducted a sum of ₹1,71,556/- on the ground that said amount had been deducted by FCI from the

payment to be made to Haryana Agro. It is also the case of the plaintiffs that they made representation to Deputy Commissioner, Jind, DFSC, Jind and M.S. Haryana Agro. The Deputy Commissioner got the matter enquired and as per the enquiry report, it was found that Haryana Agro had unlawfully deducted ₹1,71,556/-.

Upon notice, defendants No.1 and 2 filed joint written statement and stated that amount of ₹80,000/- had already been refunded to the plaintiffs vide cheque dated 11.08.2005. It is further stated that as per the terms and conditions, the plaintiffs were duty bound to load the wheat and other produce from godown into the trucks supplied by the FCI. Certain delay was caused in loading of the agricultural produce into the trucks and for the said delay and negligence, demurrage had been imposed by the Railway on FCI. The FCI in turn deducted the amount from Haryana Agro. It is also stated that since the delay has been caused by the plaintiffs in loading the wheat into the trucks, the said amount was payable by the plaintiffs.

After framing the issues and after the parties led evidence, learned Addl. Civil Judge (Senior Division) Jind, decreed the suit of the plaintiffs. An appeal was filed by the defendants No.1 and 2- appellants and the same was dismissed by learned District Judge, Jind, vide judgment and decree dated 04.01.2012.

Aggrieved from the above-said judgments and decrees, present regular second appeal has been filed by appellants-defendants No.1 and 2.

Notice of motion was issued to respondents No.1 and 2

and they appeared through counsel and contested the appeal.

The records of the Courts below were also received.

I have heard learned counsel for the parties and have gone through the record.

From the record, first of all, I find that the appellants are disputing the finding of fact given by the Courts below. The findings given by the Courts below are concurrent. Nothing has been shown at the time of arguments as to which evidence has been misread by the Courts below and how the findings given by the Courts below are perverse. No substantial question of law arises in the present regular second appeal. There is no dispute that labour contract was given to the plaintiffs. It is also admitted fact that plaintiffs are only to load wheat from the godown into the trucks. It is also admitted fact that FCI has deducted ₹1,71,556/- from Haryana Agro and Haryana Agro deducted the same from the plaintiffs. The amount in question has been claimed by the Railways as demurrage for delaying the loading of the wheat in the train. Even at the time of arguments, learned counsel for the appellants failed to show any term and condition that plaintiffs are to load how much wheat in the trucks. There is nothing in the terms and conditions to load the trucks expeditiously by bringing extra labour in case of special trains etc. There is also no cogent evidence on the record to show that any prior notice regarding special trains has been given to the plaintiffs. There was no condition regarding deducting of amount for demurrage from plaintiffs.

In view of the above, I find that the findings given by the

Courts below are correct, as per evidence and law. In no way, it can be held that Courts below have not read the evidence in right perspective or the findings given by the Courts below are against the evidence and law.

In view of the above discussion, I find that the judgments and decrees passed by the Courts below are correct, as per evidence and law and do not require any interference from this Court and the same are upheld. No substantial question of law arises in the present regular second appeal.

Therefore, finding no merit in the present regular second appeal, the same is dismissed.

August 04, 2015
Vgulati

(INDERJIT SINGH)
JUDGE