

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

RSA No. 3130 of 2012 (O&M)

Date of decision : 10.7.2015

M/s Narain Dass and Company

... Appellant

vs

Municipal Council, Kotkapura and others

... Respondents

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. Ashish Gupta, Advocate, for the appellant.

Rajesh Bindal, J.

The plaintiff is before this Court against the concurrent findings of fact recorded by both the Courts below whereby the suit filed for mandatory injunction seeking to recover ₹ 11,09,805/- along with interest, was dismissed.

In the case in hand, the appellant was working as a contractor for collection of octroi with Municipal Council, Kotkapura. The contract was for the period from 11.10.2014 to 10.10.2015, which was further extended for a period of ten weeks @ ₹ 7,28,000/- per week. This fact is not in dispute. Merely because there was some error in preparation of bill, the appellant cannot claim refund. Both the Courts below found that the appellant was liable to pay that amount. There was no excess amount deposited by him. Hence, there was no question of any claim maintainable on his behalf. Even otherwise, a suit for mandatory injunction for recovery of money without paying ad-valorem court fee may not be maintainable.

No fault can be found with the impugned judgments and decrees of both the Courts below. No substantial question of law arises. The appeal is accordingly dismissed. Consequently, the accompanying applications are also dismissed.

10.7.2015

vs

(Rajesh Bindal)

Judge