

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

**RSA No.5310 of 2012 (O&M)
Date of decision : March 23, 2015**

M/s Navkiran Cold Storage Pvt. Ltd. and another

..... Appellants

Versus

Pritam Singh

..... Respondent

CORAM : HON'BLE MR.JUSTICE GURMIT RAM

1. To be referred to the Reporters or not? No / Yes
2. Whether the judgment should be reported in the Digest? No / Yes

Present : Mr. G.K. S. Taank, Advocate,
for the appellants.

GURMIT RAM, J.

1. This appeal is preferred by the appellants/plaintiffs M/s Navkiran Cold Storage Private Limited, Nakodar against the judgment and decree dated 09.12.2010 passed by the Court of learned Civil Judge (Junior Division), Nakodar vide which the suit filed by the plaintiffs for the recovery was dismissed; and judgment & decree dated 20.03.2012 passed by the learned District Judge, Jalandhar vide which appeal filed by the plaintiffs against the abovesaid judgment and decree of the learned trial Court was also dismissed.

2. The case of the appellants/plaintiffs before the learned trial Court in nutshell was that the plaintiff was a cold storage firm registered

under the Companies Act and Resham Singh was its Managing Director. This firm used to deal with cold storage of different products mainly potatoes brought by the agriculturists etc. etc. Defendant who was a customer of the plaintiff-firm used to store his potatoes crop on rent with the plaintiff-firm. He brought 614 bags of potatoes from 07.04.2003 to 20.04.2003 to the plaintiff-firm for the purpose of storage. The rent as settled was ₹60/- per bag. It was also the case of the plaintiff that defendant took all the storage bags of potatoes from plaintiff-firm without paying any charges during the year 2003 on the assurance that he will pay the entire amount after selling the potatoes in open market, but he failed to pay any amount in this regard to the plaintiff, which necessitated to file the instant suit.

3. Upon notice defendant appeared and filed his written statement taking preliminary objections regarding the maintainability of the suit. But anyhow he admitted that he stored 614 bags of potatoes with the plaintiff-firm in between 07.04.2003 to 20.11.2003 on different dates for a period of 07 months. Each bag was containing 50 kilograms potatoes and the rent as settled was ₹35/- per bag for one season at the time of the storing the bags of potatoes. 50% of the rent amount was received by plaintiff-firm from defendant in advance. Out of the abovesaid 614 bags of potatoes, 300 bags were of seed. Defendant asked the plaintiff in the month of November for lifting the bags from the plaintiff-firm, upon which it was stated that his bags are not traceable since the Clerk (*Muneem*) had left the job. On the asking of the plaintiffs, defendant handed over the receipts to the Clerk (*Muneem*) of plaintiff-firm in good faith. The defendant requested the

plaintiff-firm many a times to deliver his bags of potatoes stored with it, but to no effect. Ultimately it was told to defendant by the plaintiff that potato bags are not traceable and as such he will compensate him by making a payment of ₹92,100/-. Plaintiff failed to pay this amount, rather filed the instant suit for recovery.

4. The learned trial Court after hearing the learned counsel for both the parties and perusing the record as well, dismissed the suit of the plaintiffs with cost vide impugned judgment and decree dated 09.12.2010.

Feeling aggrieved from this judgment and decree, the appellants/plaintiffs filed an appeal before the District Judge, Jalandhar which was also dismissed vide judgment and decree dated 20.03.2012.

5. Feeling aggrieved from the judgments and decrees passed by both the Courts below, appellants/plaintiffs have preferred the instant appeal before this Court.

6. I have heard the learned counsel for the appellants and have also perused the record as available on the file.

7. Exhibit P1 is the copy of the registration certificate of the plaintiff-firm. The main plank of the appellants/plaintiffs' evidence to establish its claim is the attested photocopy of ledger Ex.P3 of the plaintiff-firm pertaining to entries of respondent/defendant regarding storage of potatoes with the plaintiff-firm. But it is admitted by plaintiff-Resham as PW-1 that photocopy of ledger Ex.P3 is bearing neither his signatures nor of his Clerk (*Muneem*). Even it also does not bear the signatures of respondent/defendant. Then it is his further admission that Ex.P3 is not the correct copy of the original ledger produced in the Court. Further plaintiff-

firm is an income tax assessee, but the document Ex.P3 was not got attested from any authority authorized under the rules to do so. Then no documentary evidence had come on the record with regard to the rate of rent.

8. It is the settled law that any entry made in the ledger (*Bahi*) account kept in due course of business is relevant but it is not sufficient to create any liability against any person, unless there is other evidence corroborating to this entry. In order to reach at this conclusion the principles as laid down in the case laws titled as ***Ishwar Dass Jain (Dead) through LRs vs. Sohan Lal (Dead) through LRs, 2000 AIR (SC) 426*** and ***M/s Ganesha Mal Nanak Chand vs. Chhinder Kaur and other 2014(3) PLR 476*** of this Court are followed.

9. In this case it is the plea of the appellant that the appellants/plaintiff-firm delivered 614 bags of potatoes to the respondent/defendant on his assurance that he will pay the entire amount of rent after selling the potatoes in open market. But at the time of making delivery of the said bags of potatoes to respondent/defendant, the appellants/plaintiff-firm was supposed to get an undertaking in writing from the respondent/defendant that he will pay the entire amount of rent after making sale thereof. Then the copy of the alleged ledger as produced by the plaintiff-firm was also brought on record as Ex.D4, Ex.P3 is also stated to be its attested photocopy. Ex.D4 and Ex.P3 do not tally with each other because the body of Ex.P3 is of 07 lines and whereas this writing in the original is of 10 lines. Though it is admitted that respondent/defendant had stored 614 bags of potatoes with plaintiff/firm, but there is no

document/evidence on the record to the effect that said bags of potatoes were ever delivered or returned back to the respondent/defendant. So the mere admission of the respondent/defendant regarding depositing of his 614 bags of potatoes with the plaintiff-firm does not bound him to pay any rent charges when the appellant-firm has failed to bring on record any sort of evidence that his bags of potatoes were ever delivered to him after the cold storage season.

10. In the light of the above discussion no ground to make any kind of interference in the impugned judgments and decrees is made out. This appeal being meritless stands dismissed and disposed of accordingly.

11. Since the main appeal has been disposed of, so the pending civil miscellaneous application, if any, also stands disposed of being rendered infructuous.

March 23, 2015

Gaurav Sorot

**(GURMIT RAM)
JUDGE**