

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

**RSA No.1460 of 2013 (O&M)
Date of decision : March 23, 2015**

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

..... Appellants

Versus

Gurpreet 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 16.03.2011 passed by the Court of learned Additional Civil Judge (Senior Division), Nakodar vide which the suit filed by the plaintiffs for the recovery was dismissed with costs and judgment and 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 and Resham

Singh was its Managing Director. Defendant who was a customer of the plaintiff-firm used to store his potatoes on rent with the plaintiff-firm. He stored 925 bags of potatoes with the appellants/plaintiffs on rent in the year 2004 at the rate of ₹40/- per bag. Further he also stored 800 bags of potatoes with the appellants/plaintiff in the month of March 2005 at the rate of ₹45/- per bag. He assured the appellants/plaintiffs to pay the entire amount of rent after selling the potatoes in open market without paying any rent in advance. With this assurance, he got all the stored bags of potatoes from the plaintiff-firm, but did not pay any rent despite repeated requests of plaintiffs, which necessitated to file the suit.

3. Upon notice respondent/defendant appeared and filed written statement by taking preliminary objections qua the maintainability of the suit, concealment of facts, limitation, locus standi etc. etc. He also took the plea that he is a small land owner and never stored any potatoes with the appellants/plaintiffs. He denied his liability to pay any amount to the appellants/plaintiffs. Record of the appellants/plaintiffs-firm was also stated to be bogus.

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 costs vide impugned judgment and decree dated 16.03.2011.

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

6. Feeling aggrieved from both these impugned judgments and

decrees, the appellants/plaintiffs have preferred the instant appeal before this Court.

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

8. The main plank of the appellants/plaintiffs' evidence in order to create liability against the respondent/defendant are the copies of their ledger Ex.P1 and Ex.P2 allegedly pertaining to the account of defendant. These copies were brought on record also to establish the fact that respondent/defendant had stored his bags of potatoes with the plaintiffs'-firm in the year 2004-2005. But interestingly signatures of defendant/respondent were not obtained on both these copies, when he allegedly stored his bags of potatoes with the plaintiffs'-firm. Then it was also the case of the appellants/plaintiffs that a sum of ₹5,000/- was paid by the respondent/defendant as a rent in advance at that time but they did not place on the file any receipt etc. to establish the payment. Then the entries made in both these documents were pertaining to different years, but were found to be made with the same pen which also created suspicion about their validity. It is a settled law that mere entry in the ledger is not the sufficient proof to create any kind of liability against any person. It requires some further corroborating evidence in order to hold any person liable on the basis of entry made in any ledger (*Bahi*). In order to reach at this conclusion, the principle 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 Ganesh 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 appellants that the appellants/plaintiff-firm delivered 925 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, which was not obtained at the relevant time.

10. Then it was the case of the respondent/defendant that he is a small land owner and never stored any potatoes with the appellants/plaintiffs-firm. In this connection the appellant/plaintiff-firm did not bring on the record any *khasra girdawri* to show that the respondent/defendant had been cultivating over a big chunk of land and also sowing potato crops. Further no evidence in the shape of *jamabandi* has been brought on the record with regard to holding of respondent/defendant.

11. 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.

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

March 23, 2015
Gaurav Sorot

(GURMIT RAM)
JUDGE