

RSA No.2892 of 2013 (O&M)

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

RSA No.2892 of 2013 (O&M)

Date of Decision: September 03, 2015

Haryana Agro Industries Corporation Limited

...Appellant

Versus

K.K. Jain & others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

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

AUGUSTINE GEORGE MASIH, J. (Oral):

CM No.7696-C of 2013

Uncertified copy of judgment and decree dated
03.10.2011 is taken on record, subject to all just exceptions.

Application stands disposed of.

RSA No.2892 of 2013

Challenge in this appeal is to the judgments and decree
passed by the Courts below by which the inter-pleader suit preferred
by the appellant-plaintiff stands dismissed by the Civil Court vide
judgment dated 03.10.2011 and the appeal against the said judgment
has been dismissed on 18.03.2013.

It is the contention of the counsel for the appellant-plaintiff
that the appellant had initially hired a plinth with a capacity of 50000
metric tons to store its food grains at Hodal. The said plinth was

hired from respondent No.1 and 10 other persons being owners of the same. Thereafter, as the said plinth was not enough for storage and additional space for storage of 12000 Metric tons was required, Shri K.K. Jain-respondent No.1 was authorized to arrange the additional space. He, therefore, hired another plinth which was owned by respondents No.12 to 14. The rent amount was being paid to respondent No.1 on the basis of and as per the bills raised by him although the cheque were prepared in the name of the said respondents (owners). Some complaints were made by respondents No.12 to 14 that they were not receiving the amount of rent and therefore, they filed a suit for recovery against the appellant-plaintiff. Faced with this situation as the appellant-plaintiff had discharged its liability by making due payments of rent amount, an inter-pleader suit was filed which has been dismissed by the Courts below being not maintainable as per the provisions as contained in Order 35 Rule 5 of the Civil Procedure Code relying upon the judgment passed by this Court in Neeraj Sharma Vs. The District Sangpur Khadi Gram, 2006 (142) PLR 791. Counsel contends that the dismissal of the suit by the Courts below is not sustainable as respondents No.12 to 14 have filed a suit for recovery against the appellant-plaintiff and appellant-plaintiff having already discharged its liability will have to again pay the amount, whereas, these respondents 12 to 14 are aware as to who is to make the actual payment to them i.e.

respondent No.1.

This contention of the counsel for the appellant-plaintiff cannot be sustained in the light of the fact that as per Order 35 Rule 5 of the Civil Procedure Code, the present suit is not maintainable as the same does not enable the agents to sue their principals, or the tenant to sue their landlords, for the purpose of compelling them to inter-plead with any persons other than the persons making claim through such principals or landlords. Present is a case which is covered by the said provisions as also the ratio of the judgment in *Neeraj Sharma's* case (supra).

Finding no merit in the present appeal, specially when there is no substantial question of law which arises for consideration of this Court, the same stands dismissed.

September 03, 2015
Harish

(AUGUSTINE GEORGE MASIH)
JUDGE