

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

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**RSA No.3001 of 2013(O &M)
Date of Decision:05.02.2015**

Bharat Sanchar Nigam Limited

....appellant

Versus

Vijay Kumar

.....respondent

CORAM: HON'BLE MR.JUSTICE ARUN PALLI

Present: Mr.Madan Mohan, Advocate
for the appellant

Mr.Govind Chauhan, Advocate for
Mr.Ankit Aggarwal, Advocate
for the respondent

ARUN PALLI, J.(ORAL):-

Suit filed by the plaintiff for recovery of ₹ 19,050/- was decreed with 9% interest per annum from the date of filing of the suit till its actual realisation, vide judgement and decree dated 15.09.2011. Appeal preferred against the said decree was allowed on 14.03.2013. This is how, plaintiff is before this Court in this Regular Second Appeal.

Ex facie, provisions of Section 102 of the Code of Civil Procedure, mandate that no second appeal shall lie from any decree when the subject matter of the original suit is for recovery of money not exceeding twenty five thousand rupees. That being so, it is conceded that the instant appeal is not maintainable in law and be

permitted to be withdrawn. However, learned counsel for the appellant submits that as the appeal was filed under a mistaken belief and purely out of inadvertence, the Court fee affixed on the appeal be ordered to be refunded.

Dismissed as withdrawn.

In the wake of the fact that the institution of the appeal was purely out of inadvertence or on account of a bona fide mistake, the Court fee affixed on the appeal is ordered to be refunded. Registry is directed to prepare the refund docket.

05.02.2015

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(ARUN PALLI)
JUDGE