

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No.4250 of 2013 (O&M)

Date of decision: 19.01.2015

Amarjit Singh

... Appellant

Vs.

Darshan Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Ms. Sarika Gupta, Advocate
for the appellant.

AMIT RAWAL, J. (ORAL)

This is a Regular Second Appeal at the instance of the defendant-appellant against the judgment and decree of both the Courts below whereby the suit for recovery of Rs.1,30,000/- as principle amount along with interest @ 9% per annum from 25.02.2004 to 05.10.2004 and future interest till the date of realization has been decreed.

Learned counsel appearing on behalf of the appellant-defendant contended that respondent-plaintiff has not been able to prove the oral contract of levelling the land of the defendant and, therefore, the plaintiff failed to discharge the onus and, therefore, the suit ex facie was not maintainable and liable to be dismissed.

Learned counsel for the appellant further submits that as per stand taken by the appellant-defendant, the respondent-plaintiff had only worked for 07 days and the payment for which had already been made to the plaintiff.

Aforementioned arguments of learned counsel for the appellant sans merit. The appellant-defendant gave very vague and evasive reply to the categoric

averments made in the plaint. The stand taken by the appellant-defendant in the written statement is extracted hereinbelow: -

'No contract was entered into with the plaintiff and the entire work was got done on the basis of daily payment and the work continued for 7 days and when the work was got done, the payment was made by the defendant and remaining allegations were denied by the defendant.'

From the perusal of the written statement, it is evident that the appellant-defendant has given a very vague and evasive denial which does not confirm to the provisions of Order 8 Rule 5 of the Code of Civil Procedure. In the absence of specific denial, all the averments made in the corresponding paragraphs of the plaint are deemed to be admitted. Even the stand of the appellant when he appeared in the cross-examination was found to be fake as the truth surfaced from the perusal of the cross-examination, whereby it has been admitted that he had made the payment in three installments each of Rs.50,000/- to the plaintiff. Had the plaintiff actually worked for a period of 07 days, even as per the vague calculation, the amount cannot be more than Rs.20,000/-. Thus, for all intents and purposes, the appellant-defendant was unable to prove this case through the testimony as well as of the other witnesses.

No fault can be found with the findings rendered by both the Courts below. There is no illegality and perversity in the findings.

No substantial question of law arises for the adjudication of the present appeal.

According, the appeal is dismissed.

[AMIT RAWAL]
JUDGE

19.01.2015
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