

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

107

Regular Second Appeal No.856 of 2013 (O&M)

Date of Decision: August 18, 2015

Jatinder Pal Singh

...Appellant

Versus

Municipal Corporation, Ludhiana through its Commissioner

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Amrit Lal Jain, Advocate
for the appellant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

By way of this appeal, the appellant-plaintiff has approached this Court with a grievance that the respondent-Municipal Corporation, Ludhiana, has not made the payments for the work executed by the appellant-plaintiff in the year 1993, for which in the suit, recovery of ₹2,92,320/- along with *pendente lite* and future interest was sought to be claimed.

2. It is the contention of the counsel for the appellant-plaintiff with special reference to Exhibit P-5 which reflects that the work was executed and completed by the appellant-plaintiff but the bills have not been paid to him as the Superintending Engineer (Civil) as is clear from the communication dated 17.03.2004 referred to the said effect. Reference and reliance has also been placed upon Exhibit P-6, where again in the year 2003, it is mentioned that the work was allotted to the appellant-plaintiff by work order dated 01.12.1993 and was executed at the site by the appellant-plaintiff and on a request made by the said appellant-plaintiff, a Sub Committee of three officers was formed for verification of the

executed work by the Superintending Engineer but no further action was taken thereon. Counsel, therefore, contends that these communications indicate that the matter was being pursued by the appellant-plaintiff with the respondents and the respondents were also considering his claim. His contention thus is that the judgments and decree passed by the Courts below holding that the suit of the appellant-plaintiff is barred by limitation and that he has not been able to prove that he had actually executed the work to the satisfaction of the respondents-defendant, are not sustainable and deserve to be set aside and the suit decreed.

3. This contention of the counsel for the appellant-plaintiff cannot be accepted in the light of the fact that the appellant-plaintiff has himself admitted that the work was completed by him in December, 1993. If the work was completed in the year 1993, it has rightly been observed by the Courts below that the cause of action accrued to the appellant-plaintiff then, whereas the suit has been filed on 04.02.2006, which is more than 13 years from the date when the cause of action arose. That apart, no evidence has been led by the appellant-plaintiff to prove that as to whether the work was actually executed by him and to the satisfaction of the respondent because as per the work order, it was the satisfaction of the respondent, which would determine the entitlement and payments to be made after the execution of the work.

4. Counsel for the appellant-plaintiff has projected as if the onus was on the respondent to have proved that the work has not been executed to its satisfaction but this contention cannot be accepted as the appellant-plaintiff has at the first instance failed to prove that he had actually executed the work, the satisfaction aspect would come at a later stage.

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

August 18, 2015

Puneet

**(AUGUSTINE GEORGE MASIH)
JUDGE**