

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

RSA No.924 of 2013
Decided on : 26.08.2015

J.B.Sharma

.... Petitioner

vs.

State of Haryana & ors.

.... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Rahul Deswal, Advocate
for the appellant.

Mr. Sidharth Sanwaria, DAG, Haryana with
Mr. Ramesh Kumar, AAG, Haryana
for respondents No.1 & 2.

Arun Palli, J.(Oral)

The suit by the plaintiff was partly decreed by the trial court vide judgment and decree dated 23.01.2012 and defendants were directed to pay an amount of Rs.6,368/- on account of medical reimbursement to the plaintiff. Claim of the plaintiff qua conveyance charges, attendant as also interest on delayed payment was declined. In an appeal preferred by the defendant-State against the said decree, plaintiff also filed cross-objections as regards a part of the claims that was declined by the trial court. Vide judgment and decree dated 22.05.2012, the learned first Appellate Court allowed the appeal preferred by the defendant-State and the cross-objections filed by the plaintiff were dismissed. This is, how, the appellant-plaintiff is before this Court in this regular second appeal.

Concededly, in a suit filed by the plaintiff he prayed for a decree for mandatory injunction that he was entitled to recovery of sum of Rs.8,368/-. Provision of Section 102 of Code of Civil Procedure

amended w.e.f. 01.07.2002 reads as thus:

"102. the second appeal from any decree, when the subject matter of the original suit was for recovery of money not exceeding twenty-five thousand rupees, will be barred."

A bare analysis of the afore-reproduced provision reveals that no second appeal is maintainable from any decree, when the subject matter of the original suit is for recovery of money not exceeding Rs.25,000/-. Ex facie, plaintiff prayed for a decree for recovery of Rs.8,368/-. Present appeal was instituted on 28.08.2012.

Learned counsel for the parties are ad idem that in the wake of the afore-reproduced provisions, the appeal in hand shall not lie and thus, is not competent.

That being so, the appeal is dismissed being not maintainable.

26.08.2015
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(Arun Palli)
Judge