

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

**RSA No.447 of 2015 (O&M)
Date of decision: 24.09.2015**

M/s Chaudhary Enterprises & another ... Appellants

Vs.

M/s R.R.Gears Private Limited ... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Mr. Deepak Sabharwal, Advocate
for the appellants.

AMIT RAWAL J. (Oral)

C.M.No.1257-C of 2015

For the reasons stated in the application, duly supported by an affidavit, delay of 06 days in filing the appeal is condoned.

C.M. stands disposed of.

RSA No.447 of 2015 (O&M)

Challenge in the present appeal is to the concurrent finding of facts and law, whereby, the suit for recovery of ₹9,63,362/- inclusive interest, has been decreed.

Mr. Deepak Sabharwal, learned counsel appearing on behalf of the appellant/defendants submits, that relationship between

the parties was/is of principal and agent and not of borrower and purchaser. The goods supplied by the respondent-plaintiffs were defective. Neither any person for selling all the goods was sent nor the appellants were appointed as agents. He further submits that there is already a decree obtained by the appellants in respect of the concerned goods by the Court of Additional Civil Judge, Hapur. Both the Courts below have committed illegality and perversity in not noticing the aforesaid facts, therefore, substantial questions of law arise to be determined by this Court. He further submits that appellants are willing to settle the money in the execution petition stated to be pending.

I have heard learned counsel for the appellants and appraised the impugned judgments and decrees of the Courts below.

The story of defective material has been taken for first time in the written statement and the proceedings were initiated by filing the suit in August, 2003. The respondent-plaintiffs sent a legal notice. The contents of the legal notice had been rebutted by filing a reply, wherein, it has not been said that the goods were defective. It is not the case where the legal notice has not been received. In case, the material was defective, nothing prevented the appellants to get the same inspected and issue debit note. Having not done such act, it is clear cut case of evasive and vague denial by the appellants in respect of the goods supplied. Keeping in view aforementioned finding, I do not find any illegality and perversity in the finding

rendered by both the Courts below based on appreciation of oral and documentary evidence, much less, no substantial question of law arises to be determined by this Court.

Accordingly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

September 24, 2015
savita