

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

139/A

Regular Second Appeal No.4612 of 2015 (O&M)

Date of Decision: September 14, 2015

M/s Jaskore Singh Lakhwinder Singh, Commission Agents, New Grain
Market, Fazilka and another

...Appellants

Versus

Gurmeet Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. O.P. Kamboj, Advocate
for the appellants.

AUGUSTINE GEORGE MASIH, J. (ORAL)

CM No.11165-C of 2015

Prayer in this application is for making good the deficiency in
the Court fee.

For the reasons mentioned in the application which is duly
supported by an affidavit, the deficiency in Court fee, which has been made
good, is accepted.

The application stands allowed.

CM No.11167-C of 2015

Prayer in this application is for condonation of delay of 736
days in re-filing the appeal.

For the reasons mentioned in the application which is duly
supported by an affidavit, the same is allowed.

Delay of 736 days in re-filing the appeal stands condoned.

RSA No.4612 of 2015 (O&M)

Challenge in this appeal is to the judgment passed by the
Additional Civil Judge (Senior Division), Fazilka, dated 25.08.2011

preferred by the respondent-plaintiff for recovery of ₹3,48,000/-, which has been decreed to the extent of ₹3,00,000/- on account of principal amount along with interest at the rate of 9% per annum from the date of issuance of the cheque (Exhibit P-2) dated 29.10.2002 till the filing of the suit and interest at the rate of 6% per annum *pendente lite* and at the same rate till its actual realisation and the appeal preferred by the appellants-defendants dismissed by the Additional District Judge, Fazilka on 08.02.2013.

2. It is the contention of the counsel for the appellants-defendants that as per the stand taken by the appellants-defendants in the civil suit, no amount was advanced by the respondent-plaintiff and, therefore, there is no question of any liability. He further contends that the cheques which have been presented were although signed by appellant No.2 but they were, as a matter of fact, misplaced by the appellants-defendants and, therefore, merely because the same have been presented and dishonoured, it cannot be said that the appellants-defendants have admitted their liability. This contention of the counsel for the appellants-defendants cannot be accepted in the light of the fact that no evidence has been brought on record by the appellants-defendants nor have they appeared in the witness box. As many as 13 effective opportunities were availed by the appellants-defendants to appear and produce evidence but none appeared for the appellants-defendants in the witness box to rebut the version of the respondent-plaintiff or to support their version. The findings which are based on the evidence led by the respondent-plaintiff support his assertion in the plaint and as such no fault can be found with the judgments and decree passed by the Courts below, which would call for interference by this Court.

3. Both the Courts below have returned concurrent findings after

properly appreciating the evidence and the same cannot be interfered with as there is no perversity or illegality in the same.

4. No substantial question of law is involved in the present appeal. Therefore, finding no merit in the present appeal, the same stands dismissed.

5. In view of the dismissal of the appeal itself, CM Nos.11166-C and 11168-C of 2015 stand disposed of as infructuous.

September 14, 2015
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE