

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

RSA No. 5523 of 2015
Date of decision : October 15, 2015

**The Bawaniya Primary Agriculture Co-operative Society Ltd. and
another**

Versus
..... Appellants

Smt. Bharpai Devi

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

**Present:- Mr. P. R. Yadav, Advocate
for the appellants.**

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

Amit Rawal, J (oral).
CM No. 13277-C of 2015

This is an application under Section 151 CPC seeking condonation of delay in refiling the appeal.

For the reasons stated in the application, which is duly supported by an affidavit, delay of 96 days in refiling the appeal is condoned.

The application stands disposed of.

RSA No. 5523 of 2015

The appellants-defendants is in Regular Second Appeal against the concurrent finding of fact assailing the judgment and decree of both the courts below whereby the suit for declaration-cum-mandatory injunction to the effect that Ram Nath

son of Mangtu Ram husband of respondent-plaintiff was a regular employee as he was working on the post of Peon-cum-Chowkidar of the Society and on account of his death sought all the consequential benefits i.e. gratuity, RPF, GIS and leave encashment etc. has been decreed along with interest at the rate of 6% per annum.

Learned counsel appearing on behalf of the appellants-defendants submits that the deceased Ram Nath was never a regular employee and had remained perpetually absent from duty, accordingly, notices were sent to him bringing to his notice that he remained absent as per record of the Society. No salary was paid for the period he remained absent, therefore, the respondent-plaintiff was not entitled to all the statutory benefits. He was not discharging duties satisfactorily even copy of the attendance register Ex. DA was proved on record, but the courts below without noticing the aforementioned facts erroneously and perversely decreed the suit.

I have heard learned counsel for the appellant and appraised the paper book.

So far as, the notices alleged to have been issued to the deceased Ram Nath are concerned, it has come on record through the testimony of DW-1 that there is no dispatch number on the said letters. Sohan Lal-PW4, Branch Manager has categorically stated that Ram Nath had been working as a regular employee of the defendant's department on the post of Peon-cum-Chowkidar till the date of his death and in these circumstances and in view of the instructions issued by the Registrar Co-operative Societies Ex. PW2/E and PW4/A, he or his family is entitled to all the benefits as

he is deemed to have died, while, in harness.

The courts below on the basis of oral and documentary evidence found that the deceased Ram Nath had died while in harness and thus, the plaintiff being the widow is entitled to all statutory benefits which a regular employee would have got in case he would have been alive on his retirement.

I do not intend to differ with the finding rendered by both the courts below which is based on appreciation of oral and documentary evidence. I do not find any illegality or perversity in the aforementioned judgment and decree of the appellate court.

No substantial question of law arise for determination by this Court.

In view of what has been observed above, the appeal is devoid of merits, accordingly, the same is dismissed.

(AMIT RAWAL)
JUDGE

October 15 , 2015
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