

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

**RSA No.3489 of 2014 (O&M)
Date of decision: 23.01.2015**

Punjab State Warehousing Corporation Limited
and another

... Appellants

Vs.

M/s Shiv Shankar Rice Mills and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Anil Kumar Sharma, Advocate
for the appellants.

AMIT RAWAL J. (Oral)

C.M.No.8081-C of 2014

The application is allowed, subject to all just exceptions.

RSA No.3489 of 2014 (O&M)

This regular second appeal is directed at the instance of appellants-plaintiffs against the judgments and decrees of both the Courts below whereby the suit for recovery of ₹ 4,05,365/- along with interest @ 21% per annum has been dismissed on the ground that suit *ex facie* was time barred by law of limitation.

Mr. Anil Kumar Sharma, learned counsel appearing on behalf of the appellants-plaintiffs contends that the limitation would start from 30.09.2004 vide Ex.P10, when the Government of India issued letter to the Secretary, Food and Civil Supplies Department for the final revised rates of gunny bags for the custom milling for the

crop year 2003-04 by applying 60% cut. The agreement between appellants and the respondents admittedly was executed on 05.10.2002(Ex.P4). As per Ex.P5, the last receipt executed by the respondents-defendants was on 16.11.2002. Thereafter, there is no acknowledgment by the respondents, admitting the liability of the suit, though at the best could have been filed within a period of three years from November, 2002 yet the appellants-plaintiffs did not file the suit and the same was filed in December, 2006 i.e. after more than 04 years.

As per the argument of learned counsel for the appellants, resultant rice was delivered upto 25.03.2003. Even from this date also, the suit has been filed beyond the period of limitation and there is no acknowledgment by the defendants as envisaged under Section 18 of the Limitation Act.

Both the Courts below have rendered a finding of fact and law based on the oral and documentary evidence. Even the suit *ex facie* was barred by law of limitation. There is no illegality much less perversity in the findings of the Courts below.

No substantial question of law arises for adjudication of this appeal.

Accordingly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

January 23, 2015
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