

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

RSA No.3576 of 2014(O&M)

Date of Decision:-22.01.2015

Ramesh Sharma.

.....Appellant.

Versus

The Chairman Punjab State Electricity Board & Anr.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. Prateek Pandit, Advocate for the appellant.

JASWANT SINGH, J.(ORAL)

CM No.8279-C of 2014 has been filed under Section 5 of the limitation Act read with Section 151 CPC seeking condonation of 707 days delay in filing the present second appeal.

For the reasons stated in the application duly supported by affidavit of appellant itself, the CM is allowed and delay of 707 days in filing the present second appeal is condoned.

CM No.8280-C of 2014 has been filed under Section 5 of the Limitation Act read with Section 151 CPC seeking condonation of 01 day delay in refiling the present second appeal.

For the reasons stated in the application duly supported by affidavit of appellant itself, the CM is allowed and delay of 01 day in refiling the present second appeal is condoned.

RSA No.3576 of 2014

Defendant is in second appeal aggrieved against the concurrent findings returned by the Courts below whereby the suit for recovery filed by the respondent Punjab State Electricity Board has been decreed by learned Additional Civil Judge(Sr. Divn.), Jalandhar vide judgment and decree dated 27.07.2009 and the findings thereof were affirmed by the learned Additional District Judge, Jalandhar vide judgment and decree dated 21.03.2012.

Learned Counsel for the appellant has argued that the findings returned by the Courts below are based upon mis-appreciation of the evidence led by the parties as it is proved that although material was released but the same was used by the respondent-Electricity Board and thus, the courts below have wrongly fastened the liability upon the appellant for recovery of Rs.1,99,000/-.

After hearing learned Counsel for the appellant and perusing the paper book, this Court is of the considered view that the present second appeal is devoid of any merit and the same deserves to be dismissed.

It is apparent from the record and also not disputed that the material worth Rs.1,99,784.10/- was released to the appellant/defendant. It is also not in dispute that a departmental enquiry was conducted in which the appellant/defendant was joined and an order was passed for recovery of aforesaid amount. The learned counsel has not been able to point out even a single evidence either by way of oral or document so as to substantiate his argument that the amount was used by the respondent-Board. It is further evident from the record that both the courts below have appreciated the evidence thoroughly and after appreciating the same have come to a

conclusion that the appellant/defendant is liable to pay the decretal amount. This Court while exercising jurisdiction under Section 100 CPC is not to re-appreciate the evidence and is to only consider the substantial question of law arising in the appeal.

In view of the above, finding no question of law much less substantial question of law arising for determination in the present second appeal, the same is hereby dismissed.

(JASWANT SINGH)
JUDGE

January 22, 2015

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