

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

RSA No. 4756 of 2014(O&M)
Date of decision : January 30, 2015

Sant Rubber Limited, Jalandhar

..... Appellant

Versus

M/s Chandra Enterprises and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Pardeep Kumar, Advocate
for the appellant-plaintiff.

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).

This Regular Second Appeal at the instance of the appellant-plaintiff is directed against the the judgment and decree of the trial court whereby the suit for recovery of ₹1,85,626/- had been dismissed and appeal filed against the same was also dismissed, whereas, the counter claim of ₹23146/- of the respondent-defendant has been decreed. Learned counsel for the appellant-plaintiff in support of his contention submits that both the courts below have committed illegality and perversity as there was no evidence on record to show that the goods supplied by the appellant-plaintiff were defective and therefore the counter claim of the defendants qua a sum of ₹23146/- with regard to the charges borne by them for return

of goods through M/s Nitco Roadways(P) Ltd. could not be decreed. He further submitted that since the respondent-defendant had admitted the claim of the appellant-plaintiff the suit for recovery could not have been dismissed.

I am afraid that the aforementioned argument of the learned counsel for the appellant-plaintiff is devoid of merits for the following reasons.

It is a matter of record that there had been a dealing between the appellant-plaintiff and respondent-defendant for supply of the goods according to the specifications of the respondent-defendant. It is a case of the defendant that they had given Dies to the appellant-plaintiff to manufacture the soles according to their specifications. Since the respondent-defendant had been receiving the complaint with regard to the quality of goods they returned back 21 bags through M/s Nitco Roadways(P) Ltd.vide receipt dated 1.12.2007 and in order to prove the aforesaid assertion made in the written statement, the respondent-defendant examined the witnesses from Roadways and as well as given response, much less notice to the other correspondence sent to the appellant-plaintiff. However as per the case set up by the respondent-defendant that the goods were not received by the appellant-plaintiff and the same are lying with M/s Nitco Roadways(P) Ltd.and nobody on behalf of the appellant had come forward to receive the consignment. The appellant-plaintiff has failed to rebut the aforementioned documentry evidence by leading direct and cogent evidence. Even in the statement of account placed on record there is no reflection of the return of goods. Obviously,

once the goods have been received by the appellant-plaintiff the appellant-plaintiff could have raised the dispute by refuting allegations of the respondent-defendant that the goods were not actually defective but were as per specification and thereafter could have taken recourse for recovery of the outstanding amount. Having not done so, rather the appellant-plaintiff has failed to rebut the stand of the respondent-defendant.

Both the Courts below have rendered a finding of fact and law after appreciation of oral and documentary evidence. I do not find any illegality or perversity in the aforementioned orders of the courts below.

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

Accordingly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

January 30 , 2015
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