

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

First Appeal No.75 of 2002

Anil Mathrani, son of Shri Tulsi Das Mathrani, Proprietor M/s Sunil General Stores, Main Road, Jagdalpur, District Bastar

---- Appellant

versus

1. State of Chhattisgarh, through the Collector, Bastar
2. The Project Officer, I.C.D.S. Project, Kondagaon, District Bastar

---- Respondents

For Appellant	:	Shri Sameer Uraon, Advocate
For State/Respondents	:	Shri Ravindra Agrawal, Panel Lawyer

Hon'ble Shri Deepak Gupta, Chief Justice

Judgment on Board

2.12.2016

1. This appeal by the original plaintiff is directed against the judgment and decree dated 9.3.2002 passed by the Third Additional District Judge, Bastar at Jagdalpur in Civil Suit No.4-B of 2000, whereby the civil suit filed by the plaintiff/Appellant for recovery of a sum of Rs.1,57,538.75 along with interest has been dismissed.
2. The case of the plaintiff/Appellant as set out in the suit is that the plaintiff had supplied 89.45 Quintals of Jaggery (Gur) to the defendants for further distribution of the same to the children in the Anganbadi Centres. He claimed that though he had supplied the goods, the price of the same had not been paid to him. The plaintiff led evidence to the effect that he had supplied the goods. He placed on record certain documents which are admitted by the defendants. These documents are Ex.P-1, a communication dated 23.6.1997, Ex.P-2, a copy of the note-sheet dated 18.6.1998, Ex.P-3, a copy of another communication dated 30.10.1998 and Ex.P-4, a copy of the report submitted by the Sub-Divisional Officer, Kondagaon. The Learned Trial Judge disbelieved the oral statement of the plaintiff on

the ground that the plaintiff had not produced any of his own records such as account books, record of sales-tax, records showing that the goods were transported, to show that the Jaggery (Gur) had been supplied by the plaintiff. The Learned Court below did not take into consideration the admitted documents.

3. I have carefully gone through the admitted documents. The first document (Ex.P-1) is a communication sent by the Project Officer in which it is stated that sufficient Jaggery (Gur) has been procured and the concerned Anganbadi Centres may collect the Jaggery (Gur) from the Project Officer. Thereafter, there is a note (Ex.P-2), which is another exhibited document and which is a note of the Additional Collector dated 18.6.1998. In this note, it is clearly mentioned that the Child Development Officer, Kondagaon had purchased 89.45 Quintals of Jaggery (Gur) from M/s Sunil General Stores @ Rs.18/- per Kg. He also stated that the Jaggery (Gur) had been supplied on 23.6.1997, but the cost of the Jaggery (Gur) has not been paid to M/s Sunil General Stores. It appears from the note that in fact the price of the Jaggery (Gur) could not be paid because the grant which was to be paid by 31.3.1998 had lapsed. Therefore, the reason for non-payment of the amount to M/s Sunil General Stores was not that it had not supplied the goods or that the goods were in any way improper or defective, but only on the ground that the amount had lapsed in the Government Treasury. Thereafter, there is a communication (Ex.P-3), which is a communication of the Collector, wherein it is clearly mentioned that if the Jaggery (Gur) had been supplied then payment of the same has to be made. Thereafter, there is a report (Ex.P-4) submitted by the Sub-Divisional Officer, Kondagaon which is a very detailed report and in this report also, it is not denied that the Jaggery (Gur) was supplied. However, the issues raised are that no proper procedure was followed while procuring. Why should the supplier of

Jaggery (Gur) suffer when the same has been utilised by the department. If the procedure has not been followed then the department may take action against the erring officials, but the supplier of the goods cannot suffer. From the documents of the Department of the State itself, which are on record, it stands proved that the Jaggery (Gur) was supplied and utilised by the Department. In the plaint, it is stated that the plaintiff is ready and willing to limit the claim to Rs.12.95 per Kg. Admittedly, 8945 Kilograms of Jaggery (Gur) had been supplied and the cost of same @ Rs.12.95 per Kg. works out to Rs.1,15,837.75. Since there is no stipulation of interest, the same is awarded at the rate of 6% per annum from the date of supply of the goods, i.e., 23.6.1997 till payment of the entire amount. The plaintiff shall also be entitled to the cost of the litigation in accordance with the rules.

4. In view of the above discussion, the appeal is allowed. The impugned judgment and decree of the Trial Court is set aside. The suit of the plaintiff is decreed for a sum of Rs.1,15,837.75 along with the interest @ 6% per annum from the date of supply of the goods, i.e., 23.6.1997 till payment of the entire amount. The plaintiff shall also be entitled to the costs of the entire litigation as per the rules.
5. A decree be drawn up accordingly.

Sd/-

(Deepak Gupta)
CHIEF JUSTICE