

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

465

**RSA-2352 of 1990 (O&M)
DATE OF DECISION: 01.06.2016.**

Niranjan Dass Rahi

...Appellant.

VERSUS

Municipal Committee, Phagwawra and others

...Respondents.

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present: None.

Shekher Dhawan, J. (Oral)

Notice issued to learned counsel for both the parties received back duly served but there is no representation on their behalf. Earlier also counsel representing both the parties failed to put in appearance and the matter was ordered to be adjourned.

Present regular second appeal, filed by the plaintiff against the judgment dated 18.07.1990, passed by learned Additional District Judge, Kapurthala, whereby judgment and decree dated 26.05.1988, passed by learned Sub Judge Ist Class, Phagwara was set aside and suit of the plaintiff was dismissed.

The only short point involved in the present regular second appeal is regarding recovery of ₹10,000/- plus interest @ 6% per annum and issue before the Court is regarding maintainability of the appeal.

The amendment of Sections 100 and 102 CPC had come into operation w.e.f. 01.04.2002, whereas the present regular second appeal was

filed on 12.10.1990. As such, present appeal is maintainable.

The present appeal is against recovery of meager amount, which is less than ₹25,000/- and both the Courts below have already decided the litigation and present appeal is not maintainable after the amendment of Sections 100 and 102 CPC.

As per amended provisions of Sections 100 and 102 CPC, there is complete bar on second appeal in case involving recovery of amount, which is less than ₹25,000/-. There is no such provision in the amendment, which reveals that amendment has to come into operation for subsequent litigation. Such a view was taken by the Hon'ble Apex Court in **Haryana Dairy Development Cooperative Federation Limited Versus Jagdish Lal (2014) 3 SCC 156**. Similar view was taken by the Co-ordinate Bench of this Court in **Gurudawara Singh Sabha Versus Uttar Haryana Bijli Vitran Nigam Limited and another (RSA No. 4972 of 2012 (O&M), decided on 21.5.2014)**. Provisions of Section 100 CPC were amended so as to restrict the scope of second appeal and to curb such tendency to burden the higher Courts with litigation in such like cases involving petty amounts.

In view of the above, present appeal is not maintainable and the same stands dismissed.

(SHEKHER DHAWAN)
JUDGE

01.06.2016.
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