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

1. RSA No.4893 of 2010 (O&M)
Date of decision : 22.07.2016

Thakar Dass

...Appellant

Versus

M/s Mangal Trading Company

...Respondent

2. RSA No.2096 of 2011 (O&M)
Date of decision : 22.07.2016

Thakar Dass

...Appellant

Versus

M/s Mangal Trading Company and another

...Respondents

**CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.**

1. Whether reporters of local newspapers may be allowed to see judgment ?
2. To be referred to reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present: Mr. Harsh Garg, Advocate for the appellant.

Mr. Arvind Bansal, Advocate for the respondents.

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**AMIT RAWAL, J. (Oral)**

This order of mine shall dispose of two regular second appeals bearing No.4893 of 2010 and 2096 of 2011 arising out of the decision of two Civil Suit No.71 of 2001 titled as Thakar Dass Vs. M/s Mangal Trading Company and another (hereinafter to be referred as Suit No.1) and Civil Suit No. 89 of 2001, titled as M/s Mangal Trading Company Vs. Thakar Dass, (hereinafter to be referred as Suit No.2) after consolidation have been decided vide common judgment.

Both the appeals are at the instance of plaintiff in Suit No.1 and defendant in Suit No.2 regarding rendition of the account. Suit No.2 is for recovery of amount of Rs.2,24,114.25 paise.

Argument of appellant before this Court is that respondent-defendant in Suit No.1 admitted, Ex.P11, receipt which was for 256 quintals 20 KG of wheat crop but J-Forms were issued in respect of 236 quintals of crop. Courts below have erroneously relied upon the J Forms and not noticed the admission qua the execution of receipt (Ex.P11), thus, there is illegality and perversity, much less, repugnancy.

It is further argued that provisions of Section 34 of the Indian Evidence Act have not been complied with, for, no production of record, as only the photocopy, has been placed on record and thus, Courts below ought not to have decreed the suit, and urges this Court for formulation of substantial questions of law.

It is further argued that dealing by the appellant with the Firm is for the two crops, thus entry in the May, 2010 has not been explained, even though, statement of account has been denied.

Mr. Arvind Bansal, learned counsel appearing on behalf of respondents-defendants in Suit No.1 and plaintiff in Suit No.2 submits that Ex.P11 has unequivocally been proved on record, much less, explained through the testimony of DW5 Tarsem Chand. Ex.P11 has been explained for 256 quintals and 20 KG of crop and J-Forms were issued in respect of 236 quintals of crop which have not been disputed till the filing of the suit. Original books of account have been produced on record but not objected to at the time of exhibition. Signatures of the appellant have also been proved through the testimony of the expert which had gone unrebutted in the absence of any evidence contrary to the same, thus, urges this Court for affirmation of the findings rendered by both the Courts below.

I have heard learned counsel for the parties and appraised the paper book and of the view that there is no merit and force in the submission of counsel for the appellant, for, in Civil Suit No.1, Courts below examined J-Forms Ex.P14 to Ex.P21 and, receipt Ex.P11 has not been believed owing to the explanation given by the witness, aforementioned. In my view, findings rendered by both the Courts below are based upon appreciation of oral and documentary evidence. As regards the other suit, opening lines in the statement of DW is that he had brought the books of account but in cross-examination, no such suggestion has been put or its exhibition was objected to. Respondent-plaintiff in Suit No.2 examined expert by proving the signatures of defendant on books of account. In my view, there is compliance of Section 34 of the Indian Evidence Act, whereas, appellant has failed to examine any expert to disbelieve his signatures. The statement of account is pertaining to the month of May 2001 i.e. few days after the execution of J-Forms, thus, the appellant had remotely failed to prove that there was no transaction for that period.

I am of the view that findings rendered by the Courts below are based upon appreciation of oral and documentary evidence, much less, no substantial questions of law arises for interference.

With the aforementioned observations, both appeals are dismissed.

**22.07.2016** **(AMIT RAWAL)**
*pawan* **JUDGE**