

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

RSA No.2109 of 2011 (O&M)

Date of decision:22.04.2016

Gurpreet Singh

.....Appellant

Vs.

Aggarwal Bricks Industries 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. Aman Dhir, Advocate
for the appellant.

Mr. B.S.Bhalla, Advocate
for respondent No.1.

AMIT RAWAL J. (Oral)

Appellant-defendant No.2 is aggrieved of the judgments and decrees of the Courts below, whereby, suit for recovery of ₹97,150/- along with interest @ 6% has partly been decreed against the appellant/defendant No.2 and defendant No.1 by holding their liability to be joint and several.

Mr. Aman Dhir, learned counsel appearing on behalf of appellant/defendant No.2 submits that respondent No.1-contractor supplied the bricks for value of ₹1,60,000/- to the society by issuing a bill. The aforementioned amount can only be recovered from the society and not against him, who, according to the respondent-

plaintiffs was President of the Society at the relevant point of time. All acts had been done by the office bearers on behalf of the Society and not in individual capacity, therefore, the Courts below have committed illegality and perversity in fastening the liability upon both defendants, He, thus, urges this Court to formulate the following substantial questions of law which read thus:-

- “1. Whether the judgment and decree against the appellant/defendant No.2 allegedly branding him as President of the Society with regard to supply of bricks can be held liable to pay the amount as joint and several?*
- 2. Whether the judgments and decrees of the Courts below suffer from illegality and perversity?”*

Mr. B.S.Bhalla, learned counsel appearing on behalf of respondent No.1 submits that as per the evidence brought on record, it has surfaced that defendant No.2 denied the receipt of the bricks and in this respect, the trial Court had ordered for recovery of amount from both the defendants jointly and severally, thus, there is no illegality and perversity in the findings rendered by both the Courts below.

I have heard learned counsel for the parties and appraised the impugned judgments and decrees of the Courts below and of the view that once the brick klin issued a bill for supply of bricks in favour of society, all acts done on behalf of the office bearer will be in their official capacity and not in personal capacity. This

aspect has escaped noticed of the Courts below. The plaintiff is at liberty to seek the execution of the recovery amount from the society to whom the bricks have been supplied. There is no appeal at the instance of the society in this Court, thus, judgments and decrees of both the Courts below have attained finality.

In view of the aforementioned observations, the judgments and decrees of the Courts below qua appellant-defendant No.2 is hereby set aside but against defendant No.1-Society is upheld/affirmed. The aforementioned substantial questions of law are answered in favour of the appellant/defendant No.2 and against the respondents.

Accordingly, the appeal stands allowed.

(AMIT RAWAL)
JUDGE

April 22, 2016
savita