IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CM Nos. 673-C & 4294-C of 2016 in
RSA No.2981 of 2013
Date of Decision 07.04.2016

M/S BRIJ GUPTA AND CO. AND ANR …..APPELLANTS

VERSUS

SAVITA GUPTA .... RESPONDENT

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Karan Bhardwaj, Advocate,
for the applicants-appellants.

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AUGUSTINE GEORGE MASIH, J (ORAL)

C.M. Nos. 673-C & 4294-C of 2016

Prayer in these applications is for placing on record documents appended alongwith the applications.

The applications are allowed subject to just exceptions.

Documents are taken on record. Exemption is also granted from filing its typed/certified copies.

RSA No.2981 of 2013

Challenge in this appeal is to the judgment and decree passed by the Civil Judge (Senior Division) Jalandhar dated 14.12.2009, whereby the suit for recovery of ₹5,23,676/- which includes principal amount of ₹2,04,200/- and the interest @ 12% per annum w.e.f. 01.04.1998 till 31.08.2005 alongwith future interest @ 12% per annum has been decreed to the extent of ₹5,23,676/- with interest @ 9% per annum from the date of filing the suit till the date of decree and with future interest @ 6% from the date of decree till actual realization of decretal amount, appeal against which preferred by the appellants-defendants has been dismissed by the Additional District Judge, Jalandhar on 29.08.2012.

2. It is the contention of the learned counsel for the appellants that the Courts below have not properly appreciated the claim as has been made by the respondent-plaintiff in his recovery suit. In the suit, what has been asserted is that ₹5,23,676/- is the total amount which has to be recovered from the respondent, which is to be calculated on the terms that the principal amount is Rs.2,04,200/- and the rate of interest @ 12% per annum w.e.f. 01.04.1998 till 31.08.2005. He contends that even going by the calculation as has been pleaded for, the amount would come to less than ₹4,00,000/- and, therefore, the decree as prayed for could not have been granted for recovery of the total amount of ₹5,23,676/-. In support of his contention, he has placed on record the calculation as carried out by a Chartered Accountant which has been placed on record as Annexure A-1 alongwith the application (CM No.673-C of 2016) allowed by this Court subject to just exceptions. The said calculations are of dated 30.03.2016. He thus contends that the judgment and decree cannot sustain and deserves to be set aside.

3. I have considered the submissions made by the learned counsel for the appellants but do not find myself in agreement with him.

4. As it is apparent from the judgment passed by the learned Additional District Judge, Jalandhar dated 29.08.2012 specially para

13 thereof where it has been specifically mentioned with regard to the detailed deductions and the amount due reflected in the income-tax returns for the year 2001-02, 2002-03 and 2005-06 which are Ex.P-1, P-2 and P-3 respectively where it has been reflected by the appellants-defendants that a sum of ₹4,45,305/- is shown to have been deposited on behalf of the respondent-plaintiff during the previous year. All these returns have been singed by the appellant-defendant No.2, namely, Brij Mohan Gupta. The said amount is duly audited by Chartered Accountant firm M/s. N.K. Vij & Associates and it is obviously a plea which could not have been taken by the appellants-defendants unless there was manipulation in the record by them. The account books as is being maintained by the appellants-defendants were the basis for filing the income-tax returns and, therefore, the said documents speak for themselves with regard to the liability of the appellants. The judgment and decree therefore passed by the Courts below being based upon books of account which have been maintained in regular course of business by the appellants cannot be ignored and the Courts have rightly relied upon the same to decree the suit of the respondent-plaintiff.

5. There is thus no illegality in the impugned judgments which would call for any interference by this Court.

6. No other point has been raised or argued by the counsel for the appellants.

7. Both the Courts below have returned concurrent findings after properly appreciating the pleadings and the evidence brought

on record by both the parties and the same cannot be interfered with as there is no perversity or illegality in the same.

8. No substantial question of law is involved in the present appeal. Therefore, finding no merit in the appeal, the same stands dismissed.

April 07, 2016 **(AUGUSTINE GEORGE MASIH)**
Dinesh **JUDGE**