IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

RSA No.4238 of 2016 (O&M)
Date of decision:29.11.2016

State Trading Corporation of India Limited
and another ... Appellants

Vs.

M/s Sood and Company ... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Manish Soni, Advocate
for the appellants.

AMIT RAWAL J. (Oral)

The appellant-defendants are aggrieved of the concurrent findings of facts and law, whereby, suit for recovery of ₹2,61,244.78 along with interest @ 6% per month from the date of filing of the suit along with future interest @ 12% from the date of decree till actual realization, has been decreed.

Mr. Manish Soni, learned counsel for the appellant-defendants submits that suit for recovery filed on 26.07.2008 was no doubt within a period of limitation, but at the fag end of the expiry, therefore, conduct of the respondent-plaintiff cannot be ignored, much less, the trial Court at Hoshiarpur did not have the jurisdiction as the appellant-Corporation having its head office at Delhi and Branch Office at Jalandhar, therefore, as per the provisions of Sections 18 and 21 (b) of Code of Civil Procedure, the suit should have been filed at Jalandhar.

On merits, he submits that there was an arrangement between the parties for providing the sunflower seeds which lasted from 08.06.2005 to 14.06.2005. There was a short fall in the quantity and as well as in the oil contents. The bills, i.e., Ex.D1 to Ex.D28 produced on record were not noticed by the Courts below. Along with every bill, report of the surveyor was also enclosed regarding the oil contents but the Courts below have not noticed the aforementioned fact and thus, the suit aforementioned was not liable to be dismissed. All these factors have not been taken care of by the Courts below and thus, urges this Court for setting aside the findings under challenge.

I have heard learned counsel for the appellant-defendants and appraised the impugned judgments and decrees of the Courts below.

By taking the last argument in the first instance, I am of the view that the report of oil contents and short fall in the quantity have not been proved in accordance with law. Mere exhibition of the document does not dispense with its proof. The author and report of oil contents, much less shortage have not been produced on record enabling the respondent-plaintiff to cross examine, thus, the argument is hereby repelled.

As regards the territorial jurisdiction, the provision of Section 20 (C) CPC enables the party to file the suit where a cause of action in whole or part arises. Once the parties have been communicating from their respective places and sending the payment to the plaintiff situated at Hoshiarpur, thus, the Civil Court at Hoshiarpur had the jurisdiction.

As regards the limitation, the last payment was made on 12.07.2005, but according to the plaintiff, was brought on record on 03.08.2005 which is reflected from the ledger/cash books (Ex.P27 to Ex.P33) for the year 2005-06, therefore, filing of the suit on 26.07.2008 cannot be said to be barred by law of limitation as the same is within 03 years.

In view of the aforementioned observations, I do not intend to differ with the findings rendered by both the Courts below which are based upon the appreciation of oral and documentary evidence, much less, no substantial question of law arises for determination of this Court.

Accordingly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

November 29, 2016
savita

Whether Speaking/Reasoned Yes/No

Whether Reportable Yes/No