

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

**Regular Second Appeal No.1152 of 2014 (O&M)
Date of Decision: April 05, 2016.**

Rajender Singh

.....APPELLANT(s).

VERSUS

M/s Mangal Trading Co. and others

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Harish Bhardwaj, Advocate for
Mr. Manoj Kumar Taya, Advocate
for the appellant (s).

SURINDER GUPTA, J.

This is second appeal by plaintiff Rajinder Singh against the judgment passed by Additional Civil Judge (Senior Division), Kaithal, whereby his suit seeking rendition of account in respect of agricultural produce sold by the plaintiff through the defendants since Rabi, 2003, amount borrowed by the defendant for advancement of their business and for direction to the defendants to make payment of the amount due to the plaintiff with interest @ 18% per annum from the date, the amount was due till the date of payment, was dismissed.

Plaintiff-appellant was an agriculturist and the defendants are running the business of commission agency of food grains in Anaj Mandi, Pundri, District Kaithal. The case of the plaintiff is that he used to sell agricultural produce through the defendants from 2003 to 2006. Plaintiff

used to take payments as and when required and purchase seeds, fertilisers and pesticides from defendant No.1. At the time of sale of agricultural produce, defendants some times issued J-form and some times *kachi Parchi* to plaintiff, who requested them to settle the account but in vain, hence, this suit.

The defendants denied contentions of the plaintiff inter-alia pleading that plaintiff sold the crops through them from 2003 to 2006. The complete account maintained by the defendants was attached with the written statement. The account had already been settled with the plaintiff and the claim made by the plaintiff was false and fabricated.

Learned Additional Civil Judge (Senior Division), Kaithal dismissed the suit in view of the fact that plaintiff had failed to produce even a single J-form issued by the defendants for purchase of crops or any *Kachi Parchi* issued in this regard. The first Appellate Court also affirmed the finding of learned Additional Civil Judge (Senior Division), Kaithal with the observation that plaintiff had filed a separate suit for recovery of ₹12 lac which was decreed. Placing reliance on the observation in case of ***Bhim Singh Vs. M/s Mewa Singh and Company 2011(2) PLR 393***, it was observed that an agriculturist selling his crops through commission agent, would not make him liable to render any account to the agriculturist. The first Appellate Court also took note of the fact that on one hand, plaintiff was seeking rendition of account, while on the other hand, he had alleged that at the time of lending of ₹12 lacs, his account was settled by the defendants-respondents.

I have heard learned counsel for the appellant and have gone

through the paper book with his assistance.

The relationship of the parties was of an agriculturist and commission agents. It is specific case of the appellant-plaintiff that at the time of selling his crop through defendant-respondent, he was either issued J-form or *Kachi Parchi*. In that event, there was no reason for the defendants for rendering any account to appellant-plaintiff, who was sure of quantity of crop sold by him and could come up with a specific plea in this regard. There was no fiduciary relationship making it incumbent upon the respondents to render the account. Moreover, the respondents have produced all the accounts along with written statement and the plaintiff could take the benefit of the same to amend the pleadings to seek the recovery of outstanding amount, if any, towards the defendants.

No substantial question of law requiring determination arises in this appeal, which has no merits.

Dismissed.

April 05, 2016.
Sachin M.

(SURINDER GUPTA)
JUDGE