

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

RSA No.5496 of 2015 (O&M)

Date of Decision: 04.02.2016

Municipal Committee, Rupnagar

....Appellant

Vs.

Sarabjit Singh and others

....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. R.S. Modi, Advocate
for the appellant.

Amol Rattan Singh, J (Oral)

This appeal has been filed against the judgment and decree passed by the learned Civil Judge (Jr. Divn.), Ropar, dated 31.07.2013, in Civil Suit No.267 of 08.03.2010 and the judgment and decree passed by the learned Addl. District Judge, Rupnagar, dated 28.11.2013 in Civil Appeal No.05299/20.09.2013, decreeing the suit of respondent No.1-plaintiff, for recovery of Rs.43,700/- from the appellant-Municipal Council, Rupnagar (defendants).

Learned counsel for the appellant-defendants did not deny that the work in respect of which recovery was sought by respondent No.1 was executed by respondent No.1, but submits that there was non-joinder of necessary parties in the suit, as the money for execution of the works was to be released by the Deputy Commissioner, Rupnagar, who was not made a party to the suit. Issue No.3 was also framed in that regard but was

decided against the appellant-defendants, on the ground that there was no pleading to the effect that since the money was to be released by the Deputy Commissioner, Rupnagar, or the Canal Department of the Government of Punjab, they should be made a necessary party. Further, neither was any documentary evidence led, nor anybody from the Canal Department or the Deputy Commissioners' office examined by the appellant-defendants, to prove the above.

Further, it is the admitted case that the works contract was actually between the appellant and respondent No.1. Learned counsel for the appellant submits that the work executed by respondent No.1 was the construction of a "labour shed" within the municipal limits of Municipal Council, Rupnagar, which actually was the responsibility of the State of Punjab and not that of the Municipal Council, Rupnagar, which was only a nodal agency to carry out the works.

Even if that contention is accepted to be fully correct, I do not see why respondent No.1-plaintiff should suffer in a contract between the respondent and appellant, on account of a miscommunication or on an issue essentially between the Government and another Public Body, i.e. appellant-Municipal Council, with the appellant not having led any evidence whatsoever before the trial Court, with regard to the source of moneys payable for the execution of the works, either by the office of the Deputy Commissioner or the Canal Department. However, the appellant, naturally, would be at liberty to initiate recovery proceedings against either or both of

the aforesaid two office/department of the State of Punjab, in respect of the decretal amount awarded in favour of the plaintiff-respondent.

Accordingly, this appeal is dismissed in limine, with the aforesaid observation.

However, nothing said herein would be construed to be an opinion of this Court with regard to the merits of the right of the Municipal Council to recover the decretal amount from either the office of the Deputy Commissioner, Rupnagar, or the Canal Department. That would be an issue to be gone into in any proceedings initiated for the said purpose, by the appellant.

February 04 , 2016

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**(AMOL RATTAN SINGH)
JUDGE**