

234

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

**RSA-3515-2014 (O&M)
Date of decision : 12.05.2016**

State of Punjab and others

... Appellants

Versus

M/s G.I. Construction Company

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Piyush Bansal, DAG, Punjab.

Mr. Vipin Mahajan, Advocate
for the respondent.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

AMIT RAWAL, J. (ORAL)

The appellants are aggrieved of the findings rendered by the both Courts below with regard to the issue No.1-A as the claim qua interest in the grounds of appeal was given up on the premise that the amount of ₹ 1,45,000/- in claim was not part of the contract.

Mr. Piyush Bansal, DAG, Punjab submits that the Courts below have erroneously rendered the findings against the appellant(s)-defendant(s), for, the aforementioned extent of work allegedly done by the contractor was inspected by their Officers and noticed in the measurement. The Contractor had admitted not to claim any extra amount. In view of the undertaking submitted by the Contractor, he cannot claim any extra amount, thus, there is illegality and perversity, much less, substantial question of law arises for

determination as carved out in the memorandum of appeal.

Mr. Vipin Mahajan, learned counsel appearing on behalf of the respondent-plaintiff submits that the appellant(s)-defendant(s) have failed to prove the signatures on the alleged undertaking, but the fact remains that it would not be a estoppel to claim legitimate amount, in view of the ratio decidendi culled out in the judgment rendered by Hon'ble Supreme Court in *"M/s Ambica Construction V/s Union of India" 2007 (1) RCR (Civil) 257,* and subsequent judgments rendered on the same line.

I have heard the learned counsel for the parties and appraised the paper book and of the view that the respondent-plaintiff cannot be estopped to claim the amount in the absence of the actual work undertaken by giving up the right to claim the amount. The appellant(s)-defendant(s) has failed to prove the signatures on the alleged undertaking of the Contractor, much less, confront in the cross-examination. It is a settled law that where a person has even taken the amount as issued under the certificate, cannot be precluded to agitate grievance. The aforementioned ratio rendered in *M/s Ambica Construction's case* (supra) is reiterated in *"R.L. Kalathia and company V/s State of Gujarat" (2011) 2 SCC 400.* In my view, both the Courts below have rendered a correct finding after noticing the facts and law.

For the foregoing reasons, no ground is made out for interference in the findings, under challenge, much less, no substantial question of law arises for determination and accordingly, the appeal is dismissed.

12.05.2016
yogesh

(AMIT RAWAL)
JUDGE