

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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RSA No.1396 of 2016 (O&M)
Date of decision: 30.08.2017

Jasbir Singh Ahluwalia

..... Appellant

Versus

Punjab Water Supply & Sewerage Board
and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Satbir Rathore, Advocate
for the appellant.

ANIL KSHETARPAL, J. (ORAL)

Plaintiff is in Regular Second Appeal against the judgment passed by learned Additional District Judge dated 03.11.2015.

Plaintiff had filed a suit for recovery of ₹ 1,91,950/- along with future interest @ 12% per annum. It was the case of the plaintiff that plaintiff had deposited security with the defendants to the extent of ₹ 75,000/- in the year 1991. However, defendants have failed to refund the aforesaid security amount.

It was further asserted by the plaintiff that defendant No.1 had allotted work of construction of overhead service reservoir of 1.05 lac gallon capacity on the basis of pile foundation construction. However, due to the boulders and stones underneath the ground, this work was not practically feasible and the overhead reservoir can only be constructed with raft foundation. There was some correspondence between the parties. At

one stage, penalty of ₹ 32,280/- was imposed as the plaintiff failed to carry out the work. However later on, Superintending Engineer waived the aforesaid penalty.

On the other hand, defendant contested the suit and submitted that the suit filed by the plaintiff is not maintainable as the plaintiff has failed to carry out the work.

Learned trial Court after appreciating the evidence available on the file dismissed the suit filed by the plaintiff. Plaintiff filed the first appeal. Learned First Appellate Court after noticing the fact that the Managing Director of the Corporation had imposed the penalty of ₹ 32,280/- decreed the suit filed by the plaintiff to the extent of ₹ 42,720/-.

Learned counsel for the appellant has submitted that once the penalty of ₹ 32,280/- had been waived off by defendant No.4, it could not be re-imposed by the Managing Director. He has further submitted that the First Appellate Court has failed to award interest to the plaintiff.

There is no dispute that the Managing Director of the Corporation vide letter dated 23.02.2001 had re-imposed the penalty of ₹ 32,280/- on the plaintiff. Plaintiff has not challenged the aforesaid order. In these circumstances, plaintiff has no claim with respect to the amount of ₹ 32,280/-.

The next argument of learned counsel for the appellant is that the First Appellate Court has not awarded interest, although, the amount was lying deposited with the defendant since 1991. I have considered the submission. Learned counsel for the appellant has not been able to establish on file that there was any agreement to refund the amount of security along with interest. In absence of any contract, the plaintiff is not entitled to the

interest on the amount of security.

In view of discussion made above, there is no ground to interfere with the judgment passed by the learned Additional District Judge.

Appeal is dismissed.

30.08.2017
Dinesh Bansal

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	Yes / No
Whether Reportable	Yes / No