

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

**RSA No.3345 of 2016 (O&M)
Date of Order: 31.08.2017**

**M/s Parmeshwar Rice and General Mills
and others**

..Appellants

Versus

Parveen Kumari and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vipin Mahajan, Advocate,
for the appellants.

ANIL KSHETARPAL, J (Oral)

C.M.No.8852-C of 2016

Prayer in this application is for condonation of delay of 25 days
in filing the appeal.

For the reasons mentioned in the application, which is
supported by an affidavit, the delay of 25 days in filing the appeal is
condoned.

Application is allowed.

RSA No.3345 of 2016

Defendants are appellants against concurrent findings of fact
arrived at by the Courts below.

Plaintiff filed a suit for recovery of Rs.3,99,257/- as principal
amount along with interest @ 12% per annum.

Plaintiff had claimed that the parties were in the trading of food

grains and defendants used to purchase food grains from the plaintiff firm and make payments thereof.

Defendants in the written statement admitted the transactions between the parties but took a plea that the entire payment has been made.

Learned trial court after appreciating the evidence available on the file, recorded a finding of fact that the defendants have not made payment of Rs.3,99,257/-.

Defendants filed the first appeal. After re-appreciating the evidence available on the file, learned first appellate Court dismissed the appeal filed by the defendants.

Learned counsel for the appellants has submitted that the suit filed by the plaintiff was barred by time as the last supply of the material was on 14.11.2004 and the suit was filed on 15.11.2007.

I have considered the argument of learned counsel for the appellants.

As per the plaintiff, defendants have been making payment through cash, draft and cheque upto 06.02.2006. It was a case of running account maintained by the parties during the course of business and material was being supplied on different dates and payments were being received and credited. Therefore the limitation would start atleast from the day when last transaction took place, which is stated to be on 06.02.2006.

Still further, although, the trial court had framed an issue with regard to limitation. However, counsel for the plaintiff did not address any arguments on the issue of limitation. Even before the first appellate Court issue of limitation was not pressed.

In view thereof, I do not find any good ground to interfere with the concurrent findings of fact arrived at by the Courts below.

The regular second appeal is dismissed.

August 31, 2017
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No