

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

496

RSA No.316 of 1996 (O & M)
Date of Decision:23.03.2018

M/s Juneja Oil Industries and another

...Appellants

Versus

M/s Amar Trading Co. and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: None for the appellants.

Mr. O.P. Goyal, Senior Advocate with
Ms. Radhika, Advocate
for the respondents.

ANIL KSHETARPAL, J.(Oral)

Defendants-appellants are in the regular second appeal against the concurrent findings of fact arrived at by the Courts below while decreeing the suit for recovery of Rs.2,42,495.25 paisa.

Plaintiff filed a suit claiming recovery of Rs.2,09,498.75 paisa as principal and Rs.34,501.25 paisa as interest up to 10.02.1990 i.e. the date of institution of the suit. Plaintiff claimed to be a partnership firm. It is the case of the plaintiff that the firm is in the business of Commission Agency dealing in Oil Seeds on commission basis, whereas defendant-firm is engaged in the business of Oil Seeds Crushing. It is further the case of the plaintiff that on the request of the defendant, plaintiff purchased Oil Seeds on behalf of the defendant and were stocked at Sirsa in the premises of the plaintiff. Plaintiff further claimed that the plaintiff had opened a current account in its account book and as per that account books Rs.2,44,000/- is

due and recoverable. On the other hand, the defendant-appellant contested the suit and pleaded that the plaintiff was appointed as an agent to purchase oil seeds on its behalf but without authorization and inspite of instructions to the contrary, the goods i.e. oil seeds were sold, which resulted into loss of Rs.7,17,704.19 paisa.

Both the Courts after appreciation of evidence available on the file have recorded a finding that the defendant failed to prove the instructions alleged to have been given by it to the plaintiff, not to sell the goods i.e. oil seeds. Hence, the Courts below decreed the suit. Learned trial Court decreed the suit along with a future interest @ 18% per annum, which has been affirmed by the learned First Appellate Court considering that both the parties are in the business and the rate of interest is prevalent in the area.

Since learned counsel for the appellant has not chosen to appear, although, office of the High Court had informed him as per the note given, hence, this Court is left with no choice but to read and decide the matter. This Court has gone through the grounds of appeals. A reading of the grounds of appeal does not show that there is any substantive misreading or non-reading of evidence as appreciated by the Courts below.

Hence, there is no ground to interfere.

Regular Second Appeal is dismissed.

23.03.2018
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(ANIL KSHETARPAL)
JUDGE

Whether Speaking/Reasoned: Yes/No
Whether Reportable : Yes/No