

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

RSA No. 1198 of 2012 (O&M)

Date of decision : 03.08.2018

Haryana State Agricultural marketing Board, Panchkula & ors.

....Appellants

V/s

M/s Jai Shree Rice and Genral Mills, Bhuna

....Respondent

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Anil Chawla, Advocate for the appellants.

Mr. N.P. Bhardwaj, Advocate for the respondent.

RAJAN GUPTA J.

Aggrieved by the findings of two courts below, appellants have filed the present appeal. Learned counsel for the appellants submits that both the courts below have completely failed to appreciate the material facts on record and have erred while passing the impugned judgments. Sufficient evidence was led by appellants-defendants to prove that amount in question have been rightly recovered from the plaintiff-respondent. Learned counsel for the respondent has refuted the contentions. According to him, amount in question has been arbitrarily recovered without following the prescribed procedure. Thus, impugned orders have rightly been passed.

I have heard learned counsel for the parties and given careful thought to the facts of the case.

A suit for declaration and permanent injunction was preferred by plaintiff-respondent with the averment that recovery of amounts as HRDF, market fee and composition fee alongwith penalty by defendant-

Market Committee, Bhuna on two occasions were illegal, arbitrary and, thus,

liable to be refunded. It was averred that on 17.11.2007 Zonal Administrator, Hisar and some officials of Market Committee, Bhuna without giving any notice and information visited the premises of plaintiff on two occasions i.e. on 16.12.2006 and 17.12.2007 and recovered market fees, levy of penalty and composition fees on the ground that it had kept the paddy in the premises beyond the quantity on which market fee had been paid. They threatened the plaintiff to cancel its license in case of non-deposit of aforesaid amount. It was alleged by plaintiff that defendants on both the occasions had not followed the provisions of Haryana Rural Development Funds Rules and Haryana Rural Development Act and Punjab Agricultural Produce Market Act and Rules and by laws made thereunder and had acted arbitrarily. Suit was contested by the defendants. They took the plea that amounts have been correctly recovered from the plaintiff as it was found in excess quantity of paddy beyond the quantity shown in the stock register. Thus, suit was not maintainable. On the basis of evidence led before the trial court, it partly decreed the suit. It held that plaintiff cannot claim the refund of amount recovered on 16.12.2006 by the Market Committee as it had filed the suit after the expiry of six months. However, as regards recovery of amount effected on 17.12.2007, it came to the conclusion that same had been recovered arbitrarily as defendants have failed to prove and lead any evidence with regard to physical verification/weightment of stock lying in the plaintiff's premises at the time of inspection and thus, cannot claim that any excess stock was lying in the premises beyond the quantity reflected in the stock register. It, thus, directed the defendants to refund the amount within a period of one month from the date of passing of the order.

Findings were unsuccessfully challenged before the appellate court. Learned

counsel for the appellant has not been able to show any infirmity with the

concurrent findings of the two courts below warranting interference in second appeal. No other substantial question of law has been urged. I am thus of the considered view that appeal is without any merit. Same is hereby dismissed.

As the appeal has been dismissed on merits, no order needs to be passed in the accompanying application.

August 03, 2018
Ajay

(RAJAN GUPTA)
JUDGE

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