

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

RSA No.1996 of 2016 (O&M)

Date of Decision:11.10.2018

Mohinder Pal Proprietor and another

...Appellants

Versus

M/s Dharminder Singh and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.Deepak Sharma, Advocate for the appellants.

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 a suit for recovery of Rs.1,55,855/- alongwith interest @ 6% per annum from the date of institution of the suit till realisation.

The plaintiff, which is a registered Firm, claim that it was regularly supplying goods (foodgrains) to the defendants and last payment was made through Cheque No.137809 dated 30.6.2005 for Rs.7,000/-. Thereafter outstanding balance in the running account is Rs.1,11,725.81/- which has not been paid.

The defendants pleaded that the plaintiff has failed to disclose the date, month or year of the transactions/dealings.

In evidence, the plaintiff produced five witnesses including bank official to prove their case. They also produced their account books so as to prove their case. The defendant did not appear in evidence.

On appreciation of the evidence, both the courts have recorded that the plaintiff is entitled to recovery the amount.

This Court has heard the learned counsel for the appellants at length.

Learned counsel for the appellant has submitted, while referring to the statement of DW-4, that only entries in the books of accounts up to the year 2000 have been proved, whereas remaining entries in the books of accounts have not been proved. He has further submitted that the suit filed by the plaintiff was barred by time.

This Court has considered the submissions, however, find no substance therein.

The author of books of accounts up to the year 2000 has been examined as DW-4. Remaining books of accounts have been produced by other witnesses including partner of the plaintiff-Firm Dharminder Singh, who has been examined as PW-5.

As regards the suit being time barred, it may be noted that last payment was made on 30.6.2005 through a cheque drawn on a bank account maintained by the defendants and the suit was filed within three years from the date of the last payment.

In view of the above, there is no ground to interfere. The present regular second appeal is dismissed. Pending application(s), if any, shall also stand disposed of, in terms thereof.

11.10.2018
mks

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No