

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No.2950 of 2016 (O&M)
Date of decision: 23.1.2018

Beant Singh

....Appellant

Versus

The Punjab State Cooperative Society and Marketing Federation and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr.Raman Goklaney, Advocate for the appellant.

RITU BAHRI J. (Oral)

CM No.7917-C of 2016

For the reasons mentioned in the application, the same is hereby allowed. Delay in re-filing the appeal is condoned.

Main Case

The appellant has come up in Regular Second Appeal against the judgment dated 4.11.2011 passed by Additional Civil Judge (Sr.Divn.) Ferozepur and judgment dated 17.4.2014 passed by the Additional District Judge, Ferozepur whereby suit filed by the Punjab State Cooperative Supply and Marketing Federation for recovery of an amount of Rs.32,95,046.53/- alongwith interest @ 9% per annum has been decreed.

It is contended by learned counsel for the appellant/defendant that the Courts below have grave erred in decreeing the suit as the suit filed by the plaintiff was barred by the limitation period. It is further contended that the paddy after milling was delivered on 28.3.2000 and 13.6.2000. The

suit for recovery for the deficiency of rice mill ought to have been filed within three years to be counted from 13.6.2000. Infact, the suit was filed on 19.9.2003 which is beyond the period of limitation. It is further contended that affidavit Annexure P11 given by defendant No.2 Pritam Singh could not be made basis for filing the suit of the plaintiff.

I have heard learned counsel for the appellant and have gone through the record of the case carefully.

The appeal has been filed by the appellant on the short ground that suit was time barred as paddy was stored in his godown by Markfed on 28.3.2000 and 13.6.2000 and as per the agreement, plaintiff-Markfed had allotted the paddy to defendant No.1 for custom milling of the same for the year 1999-2000 and even previously shallow was allotted on 24.9.1997. The plaintiff has proved the entrustment of the paddy as per the testimony of PW4 Amolak Singh, Ex-Field Officer, Markfed Branch office as the same bears the signature of defendant No.2 Pritam Singh, who had signed on behalf of defendant No.1 M/s Mamdot Agros Pvt. Ltd. The physical verification has been done as per the report Ex.P11 and Ex.P12 whereby paddy to the tune of 16609 bags weighing 10795-85 qtls had been milled out of the total paddy of 29897 bags weighing 19433.05 qtls then there was shortage of 4319 bags weighing 2807.35 qtls of paddy . The plaintiff has proved the documents mortgage deed Ex.P5, Aks-latha Ex.P5/A and copy of Khasra Girdawari as Ex.P5/B and Non Encumbrance Certificates Ex.P5/C and Ex.P5/D and Will Ex.P14 whereby Jagtar Singh defendant No.4 mortgaged 10 acres of land situated at village Betu Qadim to the Markfed i.e. plaintiff and abovesaid documents were not denied by defendant No.3

while appearing as DW1. Subsequently, hence the defendant did not deny the receipts Ex.P9, Ex.P10 and entrustment of the paddy by the plaintiff. Defendant No.2 himself admitted that he will deliver the resultant rice to the tune of 864 metric rice till 15.10.2000 in the central Pool of the FCI in the account of the plaintiff. The rate of A-Grade Paddy at that time was Rs.946-91 ps. The suit of the plaintiff has been decreed after calculating the quality cut, which is to be imposed and the rice against the defendant came out to be 10.842.64 qtls and the cost comes out to be at the rate of Rs.941/- per qtl i.e. Rs.32,95,046-53 ps.

A perusal of the affidavit shows that Pritam Singh had admitted that Markfed had stored 1943 Mts of paddy crop in the year 1999-2000 and they had delivered 1079 Mts of rice to FCI in the account of Markfed and in Clause 4 of the affidavit, it is stated that balance resultant rice of 864 Mts will be delivered to FCI in Markfed account by 15.10.2000 as per the following schedule:

Period	Quantity to be delivered
1.9.2000 to 7.9.2000	144 MTS
8.9.2000 to 14.9.2000	144 MTS
15.9.2000 to 21.9.2000	144 MTS
22.9.2000 to 30.9.2000	144 MTS
1.10.2000 to 7.10.2000	144 MTS
8.10.2000 to 15.10.2000	144 MTS

The trial Court has taken the date i.e. 15.10.2000 for counting the limitation to file the suit. The date given by defendant No.2 himself for returning the balance resultant rice of 864 Mts and from this date i.e. 15.10.2000, the limitation period of three years would expire on 15.10.2003

and the suit has been filed on 19.9.2003. So it is within limitation therefore, the suit has been rightly held to be within limitation. Since the appellant had not returned the balance paddy of 864 Mts of paddy on the date fixed so 15.10.2000 has been rightly taken to be the date to count period of limitation. There is no ground to interfere in the judgments passed by the Courts below. Consequently, the appeal is dismissed.

(RITU BAHRI)
JUDGE

23.1.2018
Meenu

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