

**In the High Court of Punjab and Haryana at Chandigarh**

**RSA No. 3728 of 2016(O&M)**

**Date of Decision: 27.8.2018**

**Bhagirath Mal Garg**

**---Appellant**

**versus**

**M/s T.R. Capital Limited and another**

**---Respondents**

**Coram: Hon'ble Mrs. Justice Rekha Mittal**

**Present: Mr. S.K.Jain, Advocate and  
Mr. A.K.Jindal, Advocate  
for the appellant**

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**Rekha Mittal, J.**

The present appeal directs challenge against the judgment and decree dated 20.1.2016 passed by the Additional District Judge, Hisar whereby suit for rendition of accounts filed by the plaintiff-appellant was dismissed by way of reversal of the judgment and decree dated 9.8.2011 passed by the trial court in an appeal preferred by M/s T.R. Capital Limited-respondent No. 1.

The appellant sought rendition of accounts on the premise that he by sale forwarded 262 nugs between 5.5.2003 to 15.5.2003 from T.R.Capital Limited on telephone line on due date; the deal was completed according to circular of 22.5.2003. The market price was Rs. 371/- per 20 Kgs i.e. Rs. 1875/- per quintal. The defendants charged more market price from the plaintiff. Hence the suit.

Counsel for the appellant by referring to averments made in the plaint would contend that as the defendants did not make the picture clear

how the rate of commodity was charged @ Rs. 431/- per 20 Kgs i.e. Rs. 2155/- per quintal as against Rs. 371/- per 20 Kgs., the defendants were obligated to render the accounts. It is further argued that the trial court rightly decreed the suit but the Court in Appeal misdirected itself by holding that suit for rendition of accounts is not maintainable.

I have heard counsel for the appellant, perused the paper book particularly the judgment impugned.

The Appellate court, in view of observations made in para 21 to 23 of the judgment, has held that findings on issue No. 1 by the trial court are liable to be reversed. A relevant extract therefrom, reads as follows:-

*“21.The relationship between the plaintiff and defendants was seller and purchaser or a client in business dealings and there is a dispute in which the plaintiff is claiming damages or difference of the rate from the defendant. The plaintiff has measured each and everything by his own. Order 20 Rule 13 of CPC provides that in administration suits, a preliminary decree directing such accounts can be made. Order 20 Rule 15 provides that in a suit for dissolution of partnership or taking of partnership accounts, the court before passing final decree may pass a preliminary decree declaring the proportionate shares and directing such accounts should be taken and Order 20 Rule 16 does not create or confer any substantive right to seek rendition of accounts in any particular type of cases, or in all types of cases. It merely refers to a rule of procedure and would apply where there is an existing right to seek rendition of accounts having regard to the relationship between the parties and it is unusual form of relief granted only in certain specific cases of accounts is claimed when the relationship between the parties is such that the rendition of account is the only relief which will enable the plaintiff to satisfactorily assert*

*his legal right. The right to seek rendition of accounts is recognized in law in administration suits for accounts of any property and for its administration, suits by a partner of a firm for dissolution of the partnership firm and accounts, suits by beneficiary against trustees, suit by a member of a joint family against the karta for partition and accounts, suits by a co-sharer against other co-sharer who has received the profits or a common property, suits by principal against an agent, and suits by a minor against a person who has received the funds of the minor. So, plaintiff has no cause of action to seek rendition of account as the Hon'ble Supreme Court in judgment (supra) has categorically laid down regarding maintainability of the suit.*

22. *The Sales of Goods Act, 1930 have a provision regarding seller and buyer's right. Section 4 of the Sales of Goods Act says that a contract of sale of goods is a contract whereby the seller transfers or agrees to transfer the property in goods to the buyer for a price. There may be a contract of sale between the parties.*

23. *In the present case, the plaintiff as per his plaint in fact sought damages of the excess amount claimed by the defendants in business transaction. If the plaintiff has any grievance for the same then Chapter VI of Sales of Goods Act have provisions regarding suit for breach of the contract to claim damages and special damages for the sale and purchase transactions for any breach of contract. So, I have no hesitation to come to the conclusion that the suit of the plaintiff was not maintainable and the trial Court wrongly decided the issue No.1 which was not based either on pleading or evidence led before the court. PW1 i.e plaintiff in his cross-examination himself admitted that the plaintiff has no relationship with the defendant No.1 as principal or agent or employer or partnership relationship and there was no contract between the*

*parties for the same. In cross-examination, he categorically admitted that he faced damages of Rs.7,86,000/- in the said transaction. If the plaintiff was clearly aware regarding his damages due to transaction then he must be aware of the each and everything regarding transaction between the parties. Therefore, the finding on issue No.1 are liable to be reversed and same are accordingly reversed.”*

Counsel for the appellant has not disputed factual findings recorded by the Court in Appeal. I have examined findings of the Court in Appeal in the light of averments raised in the plaint as well as written statement but unable to find that the Court in Appeal fell in error much less perversity by holding that the present is not a case wherein the appellant can call upon the defendants to render accounts. It has been noticed that the appellant in his cross examination had categorically admitted that he suffered loss of Rs. 7,86,000/- in the transaction in question. It appears that the appellant tried to camouflage the relief of recovery by filing a suit for rendition of accounts with a clear intent to avoid payment of court fee. In this view of the matter, I do not find any reason to differ with reasoning adopted by the Court in Appeal, based upon correct appreciation of position in law.

For the foregoing reasons, the appeal fails and is accordingly dismissed in limine. No order as to costs.

**(Rekha Mittal)**  
**Judge**

**27.8.2018**

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No