

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

**RSA No.3998 of 2016
Date of Decision: 25.07.2018**

M/s Duhan Bhatta and another

.... Appellants

Versus

Ram Chander and others

... Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Munfaid Khan, Advocate for
Mr. A.K. Jain, Advocate
for the appellants.

RAJ MOHAN SINGH, J. (Oral)

[1]. Defendants are in second appeal against the concurrent judgments and decrees passed by the Courts below.

[2]. In a suit for recovery, an agreement was executed between the parties for carrying raw bricks by the plaintiff to the required destination. Rs.100/- per thousand was fixed as a rate for raw bricks and Rs.250/- per thousand was fixed as a rate for baked bricks. As per case set up by the plaintiff, 12 lacs raw bricks were prepared and an amount of Rs.1,82,000/- was due against the defendants. Defendants paid an amount of Rs.50,000/- and the remaining amount of Rs.1,32,000/- was never paid.

[3]. Defendants contested the suit by denying the amount due towards them. They alleged that on 03.05.2009, plaintiff himself left the work and his dues to the tune of Rs.24,3330/- were paid to him.

[4]. Both the parties led evidence in support of their contentions.

[5]. The factum of agreement between the parties was not in dispute. Allegations and counter-allegations were made. Plaintiff appeared himself as PW 1. Despite his lengthy cross examination, nothing incriminating could be extracted by the defendants. Testimony of the plaintiff (PW1) was duly corroborate by PW 2. On the other hand, the witness examined by the defendants i.e. DW 2 supported the case of the plaintiff. DW 2 was acting as vigilator on the brick-kiln of the defendants when the work of transporting the bricks was accomplished by the plaintiff. DW 2 Madan Lal who is none-else the defendant No.4 in the suit categorically admitted in his cross examination that actual amount of Rs.1,82,000/- was due towards the defendants.

[6]. Both the Courts below have appreciated the evidence on record in right perspective. Re-appreciation of evidence in regular second appeal is not permissible unless and until a case of misreading of evidence or perversity of any type is made out.

Perusal of the record would show that both the Courts below have decided the suit and the appeal on lawful appreciation of evidence. The findings recorded by the Courts below are not the result of misreading of evidence or perversity of any nature. No law point worth consideration is involved in the present case. The present appeal is accordingly dismissed.

July 25, 2018
Prince

(RAJ MOHAN SINGH)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No