IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

RSA No.4052 of 2016 (O&M)
Date of decision:06.12.2018

M/s Sandhu Saran, Commission Agents ... Appellant

Vs.

Gurbhej Singh and another ... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. S.C.Arora, Advocate
for the appellant.

AMIT RAWAL J. (Oral)

The appellant-plaintiff/commission agent has not been successful in seeking recovery of amount of Rs.3,45,681/- against the defendants to be their clients.

The genesis of the suit was based only on the bahi books allegedly signed by the defendants. No other independent evidence like income take returns, acknowledgment of debts or reflection of sale in their returns, has been placed on record. On the other hand, defendants have filed the counter claim and claimed the amount allegedly shown in the books of accounts and also placed on record income tax returns. The trial Court dismissed the suit by laying focus on the order of assessing officer declaring the accounts books to be bogus. The appeal taken before the Lower Appellate Court was also dismissed.

Mr. S.C.Arora, learned counsel appearing on behalf of the appellant-plaintiff submitted that alongwith present appeal, an application bearing No.10441-C of 2016 under Order 41 Rule 27 of Code of Civil Procedure for placing on record copy of the order dated 07.12.2015 of Income Tax Appellate Tribunal by way of additional evidence, was filed. The order of assessing authority has been set aside. The focus of the Courts below was only on the order of assessing authority, therefore, the matter requires re-visitation.

I am afraid the aforementioned argument is not sustainable, for, the plaintiff has not placed on record any income tax returns or any other document in support of the bahi entries which are not proof of evidence as per the provisions of Section 34 of Indian Evidence Act, 1872. The same reads thus:-

> "34. Entries in books of account when relevant. —
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> Entries in books of account, including those maintained in an electronic from, regularly kept in the course of business, are relevant whenever they refer to a matter into which the Court has to inquire, but such statements shall not alone be sufficient evidence to charge any person with liability."

On the other hand, defendants as noticed above, have brought on record the income tax returns, though they were not successful in claiming the counter claim. In such circumstances, the additional evidence sought to be placed on record declaring the books of accounts to be genuine would not help in recovering the outstanding amount. No ground is made out for interference in the findings of both the Courts below.

The appeal is dismissed.

(AMIT RAWAL)
JUDGE

December 06, 2018
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No