IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.4432 of 2016 (O&M)
Date of Decision: November 16, 2018

Punjab State Warehousing Corporation & others

...Appellants

Versus

M/s Sandhu Traders Commission Agents &another

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr. Tarun Seth, Advocate for
Mr. Sumit Jain, Advocate,
for the appellants.

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AMIT RAWAL, J. (Oral)

Appellant-defendants have not been able to defend the suit for recovery, which was decreed for ₹ 1,68,232.86/- containing element of interest @ 9% per annum from 04.02.2010 till the filing of the suit and pendente lite interest @ 6% and further interest @ 6% per annum till the realization.

Plaintiffs claimed the aforementioned amount on the premise that the plaintiff firm was carrying on the business of commission agents and the defendants had purchased paddy during the months of October, 2009 to November, 2009 on different dates worth ₹ 52,63,497.87P. A sum of ₹ 50,95,265/- had been paid on different dates through cheques, but denied the other payments despite the fact that bonus regarding the weighment of the paddy had already been issued.

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Appellant-defendants opposed the suit on the premise that there was shortage and, therefore, aforementioned amount was withheld. Even a notice in this regard was also issued to the plaintiffs.

Respondent-plaintiffs brought on record documents Ex.P1 to Ex.P15, whereas the defendants brought on record documents Ex.D1 to Ex.D67.

On the preponderance of the evidence, by denying the documents of the defendants, suit aforementioned was decreed.

Mr.Tarun Seth, Advocate for Mr. Sumit Jain, learned counsel for the appellant-defendants submitted that there is gross illegality and perversity as shortage irrespective of the fact that bonus regarding the same was paid established on record. A person cannot be permitted to claim the amount for which no paddy was purchased or gain undue benefit. In fact, no amount was payable. Whatever the amount was due, had been acknowledged by the plaintiffs as noticed in the plaint.

I am afraid, the aforementioned argument is not sustainable, for, once the defendants have already paid the bonus which is given to sellers regarding certain permissible shortage, now they cannot turn around and alleged the shortage of paddy and that too belatedly. No documentary evidence has been placed on record to establish that some action was taken immediately regarding the shortage. Both the courts below have found that there was considerable delay in noticing the shortage, which could not be attributed to the plaintiffs as it remained a mystery. All these factors weighed in the mind of the courts below.

For the reasons stated above, the argument of the learned counsel for the appellants is not able to bring the case within the realm of

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perversity. No ground for interference is made out, much less involvement of any substantial question of law. Resultantly, the appeal is dismissed.

November 16, 2018 **(AMIT RAWAL)**
ramesh **JUDGE**

Whether speaking/reasoned Yes/No
Whether Reportable: Yes/No

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