

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

RSA No.4521 of 2016 (O&M)

Date of decision : 23.10.2018

M/s Surya Pharmaceutical Limited

...Appellant

Versus

Genesis Membrane Sepratech Pvt. Ltd. and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Kunal Mulwani, Advocate for the appellant.

ANIL KSHETARPAL, J. (ORAL)

CM No.11752-C of 2016

For the reasons stated in the application, which is duly supported by an affidavit, delay of 13 days in filing the present appeal is condoned.

Application is allowed.

CM No.11753-C of 2016

For the reasons stated in the application, which is duly supported by an affidavit, delay of 58 days in re-filing the present appeal is condoned.

Application is allowed.

Main case

The plaintiff-appellant is in the Regular Second Appeal against the concurrent findings of fact arrived at by both the Courts below while

dismissing the suit for mandatory injunction.

It may be noted that initially plaintiff-company filed a suit for damages on account of supply of defective Reverse Osmosis (RO) Membrane System. However, no court fee was fixed. An application under Order 7 Rule 11 CPC was filed by the defendants and the plaintiff confined his relief only to mandatory injunction in the suit.

Both the Courts have concurrently found that the Expert produced by the plaintiff has admitted that he did not study the membrane of any other similar system. Still further, the Courts have found that membrane gave perfect results for a period of eight months and it is the plaintiff-appellant-company which used a cheaper solvent resulting into reduction of the output of the Reverse Osmosis Membrane System.

In view of the aforesaid concurrent findings of fact which is not shown to be either perverse or result of mis-reading or non-reading of evidence, this Court does not find any good ground to interfere with the concurrent findings of fact arrived at by both the Courts below .

Regular Second Appeal is dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

23.10.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No