

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

101

**RSA-3299-2015 (O&M)
Date of Decision : 20.02.2018**

The Gumanpura Friends Co. Op. L & C Society Ltd. Appellant

Versus

State of Punjab and others Respondents

**CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Namit Gautam, Advocate
for the appellant.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the judgment of the lower appellate court reversing that of the trial court and thereby dismissing a suit filed by the appellant.

The appellant had sought a declaration that the action of the official respondents in not allotting the work orders in respect of works mentioned as Sr. No.9 to 11 against tender notice dated 08.08.2001 to it was illegal and for a further consequential relief of mandatory injunction directing the official respondents to pay an unquantified compensation to the appellant for that illegal refusal. Works mentioned at Sr. No.9, 10 & 11 of the tender is as follows:-

S.No.	Name of Work	Approx. Labour Cost	E/money from Contractors (in lacs)	E/money from L&C Societies (in lacs)
9.	Extending spill bund to join spur RD 52700 FPE on left side of R/Ravi.	34.00	0.68	0.34
10.	Constg. Earthen bund to join extending Saharan bund to join BOP Kamalpur rear post on left of River Ravi.	49.00	0.98	0.49
11.	Reconditioning of shank portion of spur RD 62100, 64100, 65200, 66600 & 67000 of main FPE on left side of R/Ravi	11.00	0.22	0.11

It was averred by the appellant that it was admittedly the lowest tenderer of the said works and therefore was entitled to be allotted the said works. The case of the respondents on the other hand was that as per clause 6 of the tender notice, it was necessary to deposit the earnest money alongwith the tender. The appellant based its case on a notification of 1999 whereby the government had laid down that no earnest money would be required for unskilled works. The trial court accepted the contention that the works at Sr. No.9, 10 & 11 of the tender were unskilled works and decreed the suit allowing damages @ 10% of the costs. The appellate court held that the earnest money was a requisite condition and dismissed the suit of the appellant.

Counsel for the appellant has argued that the appellate court wrongly held the condition of deposit of earnest money to be necessary. However, the counsel for the appellant has not been able to show me how the said works can be classified as unskilled works. Moreover, a suit for

was entitled to damages, the suit should have been filed for damages with the appropriate court fees.

Appeal is dismissed. No costs.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

February 20, 2018
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(AJAY TEWARI)
JUDGE

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No