IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No. 1414 of 2018(O&M)

Date of decision: 12.3.2018

Hardayal Singh ….Appellant

VERSUS

M/s Sahil Trading Company .....Respondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Sanjay Verma, Advocate for the appellant.

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REKHA MITTAL, J.

Challenge in the present appeal has been directed against concurrent findings recorded by the Courts whereby suit for recovery filed by the respondent/plaintiff was decreed by the trial Court and judgment and decree passed by the trial Court were affirmed in appeal by the Additional District Judge, Kurukshetra.

In short, case of the respondent/plaintiff is that M/s Sahil Trading Company is a commission agency firm dealing in sale of food-grains sown by farmers on commission basis and produce is purchased by the government agencies as well as private customers. To help the farmers in growing better crops, respondent and other commission agents in the area advance money for purchase of fertilizers, diesel and other inputs required for cultivation of land. The appellant/defendant had been regularly borrowing money and selling his crops at the shop of respondent-firm. On 01.04.2000 an amount of Rs.7,10,000/- and on 01.04.2001 Rs.5,74,500/- was due towards appellant. On 26.06.2001, appellant further borrowed an amount of Rs.91,500/- from respondent-firm and put his signatures in the account books of respondent-firm and acknowledged that an amount of Rs.5,74,500/- is due towards him.

Counsel for the appellant has assailed judgments of the Courts primarily on two counts. The first submission made by counsel is that suit filed by the respondent is not legally maintainable in view of Order 30 Rule 1 of the Code of Civil Procedure, 1908 (in short 'CPC') as the suit has been filed by one of the partners only. In support of his contention, he has relied upon judgment of the Madhya Pradesh High Court (Gwalior Bench) **Vijay Kumar and another Vs. M/s Shriram Industries and others, 2016(4) M.P.L.J. 397**.

Another submission made by counsel is that entry Ex.P47 in respect of borrowing an amount of Rs.91,500/- and acknowledging outstanding balance of Rs.5,74,500/- is the result of manipulation and forgery, therefore, suit filed by the respondent/plaintiff is clearly barred by limitation.

I have heard counsel for the appellant, perused the paper-book particularly the judgments passed by the Courts.

Counsel for the appellant, in response to a query, would fairly inform that respondent – M/s Sahil Trading Company, New Grain Market, Kurukshetra is a firm registered with the Registrar of Firms and the partners recorded in form-C are the registered partners of the firm. He has also conceded that Mehar Chand through whom suit has been maintained by the respondent-firm is one of the registered partners of the said firm. Contention raised by counsel for the appellant that suit was required to be filed by two or more than two partners of the firm in view of Order 30 is patently misconceived and liable to be rejected. The judgment in **Vijay Kumar and another case** (supra), primarily deals with the mandatory requirements of Section 69(2) of The Partnership Act, 1932, though in the judgment, there is also reference to Order 30 Rule 1 CPC. That being so, the appellant cannot derive any advantage to his contention from the referred authority.

With regard to plea of the appellant qua entry Ex.P47 purported to be signed by appellant – Hardayal Singh, the Courts have recorded consistent view that the respondent/plaintiff has been able to establish correctness of the said entry whereby the appellant acknowledged outstanding liability of Rs.5,74,500/- on the day an amount of Rs.91,500/- was also borrowed by the appellant. It is difficult to accept that the entry with regard to acknowledgment of the outstanding balance has been inserted later when otherwise question of addition/manipulation of the said entry could be raised by the appellant only if he had admitted his signatures on the said entry marked as Ex.P47. This apart, counsel for the appellant has failed to point out any materials on record to prove that findings recorded by the Courts accepting entry Ex.P47 suffer from perversity much less giving rise to a substantial question of law to be decided after notice to the contesting party.

No other point has been raised.

For the foregoing reasons, appeal fails and is accordingly dismissed in limine. No order as to costs.

MARCH 12, 2018 **(REKHA MITTAL)**
'D. Gulati' **JUDGE**

Whether speaking/reasoned : yes/no
Whether reportable : yes/no