

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

RSA No.3372 of 2017 (O&M)

Date of decision:11.12.2018

Azad Singh Contractor

... Appellant

Vs.

Executive Engineer Haryana State Agricultural
Marketing Board and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Manvender Rathee, Advocate
for the appellant.

AMIT RAWAL J. (Oral)

C.M.No.8139-C of 2017

For the reasons stated in the application which is duly supported by an affidavit, delay of 30 days in filing the appeal is condoned.

C.M. stands allowed.

RSA No.3372 of 2017 (O&M)

The appellant-plaintiff has not been successful in claiming the relief of declaration challenging the communication dated 18.08.2008 received in response to the legal notice dated 12.08.2008, whereby, defendant no.1 had refused to receive a sum of Rs.6,60,000/- as earnest money deposited by the appellant in lieu of the allotment of work for carrying out the market committee.

The main plank of the plaintiff was that clear site was not handed over to him as the work was to be completed within a period of 12

months. In the absence of the same, the plaintiff could not undertake the work. This fact was proved through the contents of the letter dated 28.01.2008. In such circumstances, the Courts below ought to have confined to the refund of earnest money, aforementioned as no court fee with regard to recovery of Rs.10 lakhs, has been paid.

I am afraid the aforementioned arguments are not sustainable as per demarcation documents, Ex.D9 to Ex.D16, except khasra no.58 killa no.5/2, possession of entire land was with the defendants. Even the plaintiff did not execute the work contract as per the allotment letter dated 16.11.2007 calling upon to execute the same which contained the clause of forfeiture in case of non-compliance. In such circumstances, the plaintiff could not have been granted the declaration.

No ground is made out for interference in the impugned judgments and decrees under challenge.

The regular second appeal is dismissed.

(AMIT RAWAL)
JUDGE

December 11, 2018

savita

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No