IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

RSA No.3798 of 2018 (O&M)
Date of Decision: 02.07.2018

Manikaran Associates and another

... Appellants

Versus

Pushpinder Singh and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Ms. Punnet Kaur Sekhon, Advocate,
for the appellants.

TEJINDER SINGH DHINDSA, J.

Pushpinder Singh plaintiff filed suit for recovery of Rs.2,41,609/- along with pendente lite and future interest against the defendants. Suit of the plaintiff was decreed partly for recovery of Rs.1,65,630/- along with interest @ 6% per annum from the date of filing of the suit till realization of the amount vide judgment and decree dated 09.11.2016 passed by the Civil Judge (Junior Division), Amritsar. Defendants preferred a civil appeal and the plaintiff filed cross appeal and the same have been dealt with by a common judgment dated 08.03.2018 passed by the learned District Judge, Amritsar.

The appeal filed by the defendants has been partly allowed and the plaintiff has been held entitled to recover amount of Rs.95,515/- along with interest @6% per annum from the date of filing of the suit till realization. Cross appeal filed by the plaintiff has been dismissed. It is against such backdrop that the defendants are in second appeal before this Court assailing judgment dated 08.03.2018 passed by the District Judge, Amritsar.

Briefly it may be noticed that plaintiff pleaded in his plaint that defendant No.1 Manikaran Associates was a partnership concern. Defendant No.2 was one of the partners. It was pleaded that a written agreement dated 11.06.2011 had been entered into between the plaintiff and the defendants and in terms of which 03 old machines had been sold to him for a sum of Rs.80,000/- and father of the plaintiff had paid an advance amount of Rs.40,000/- in cash to defendant No.2. Further case of the plaintiff was that different job works had been undertaken by the plaintiff but the defendants had not rendered accounts in relation to such job works. In all recovery of a total amount of Rs.2,41,609/- against defendants was sought.

Suit of the plaintiff was contested by the defendants by denying the execution of the agreement dated 11.06.2011. A stand was taken that the alleged written agreement is a forged and fabricated document. The plaintiff was stated to be working with the defendants and any job work undertaken in relation to the machines in question was in the course of his duties and for which wages had been duly paid.

Learned counsel representing the appellants has vehemently contended that the Courts below have returned a concurrent finding of fact that the agreement dated 11.06.2011 Ex P-1 was not duly proved and under such circumstances the very foundation of the claim set up by the plaintiff seeking recovery of the amount in question stands eroded. It is contended that the relief of recovery granted in favour of the plaintiff/respondent as such cannot sustain.

Counsel for the appellants has been heard and pleadings on record have been duly perused.

Even though the submission raised by counsel seems attractive at first blush yet in the considered view of this Court, the same is not well founded. Even if the agreement Ex.P-1 dated 11.06.2011 was held to be not proved in accordance with law yet it would not completely demolish the claim of recovery sought by the plaintiff/respondent. At best an inference may be drawn that the 03 machines in question which were the subject matter of the agreement Ex.P-1 would remain in the ownership of the appellant partnership concern.

Perusal of the impugned judgment dated 08.03.2018 passed by the learned District Judge, Amritsar would reveal that the limited relief of recovery of Rs.95,515/- in favour of the plaintiff along with interest @ 6% per annum has been granted on the basis of documentary evidence i.e. Bills Ex. P-4 to Ex.P-6 which bore the signatures of the plaintiff and DW-1 Gurdial Singh in his testimony having not denied the plaintiff having done the job work as per such bills. Further more the amount in question was also found to have been entered in the account books of the partnership firm. Cash receipts Ex.P-4 to Ex.P-10 were duly proved and in terms of which payments had been made by the plaintiff on behalf of the partnership concern. No material/evidence had been adduced on record to demonstrate that the amount in relation to Ex.P-4 to Ex.P-10 had been reimbursed by the firm or its partners to the plaintiff. The Lower Appellate Court has even held the plaintiff entitled to recovery in relation to bills Ex.P-15, Ex.P-16 and Ex.P-20 wherein the plaintiff had paid certain amounts of money on behalf of the partnership concern i.e. Manikaran Associates for repair of machines from HILTI India Private Limited. No evidence was forthcoming from the defendants side to prove that the amount of such bills had been reimbursed by the appellant firm or its partners to the plaintiff.

It is upon due appreciation of evidence adduced on record that the plaintiff has been held entitled to the limited relief of recovery of an amount of Rs.95,515/- along with interest @ 6% per annum from the date of filing of the suit till its realization.

The impugned judgment dated 08.03.2018 passed by the learned District Judge, Amritsar is based on cogent and valid reasoning and based on due appreciation of evidence adduced on record. The same does not warrant any interference.

The instant appeal does not raise any question of law much less substantial question of law.

Appeal dismissed.

02.07.2018 **(TEJINDER SINGH DHINDSA)**
vandana **JUDGE**

Whether speaking/reasoned Yes
Whether Reportable No