

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

120

RSA No.5145 of 2017 (O&M)

Date of decision: 20.03.2018

M/s Choudhary Trading Company and another

..... Appellants

Versus

Natha Singh

..... Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Ms. Satwant Mehta, Advocate
for the appellants.

ANIL KSHETARPAL, J. (ORAL)

CM-13705-C-2017

Delay of 29 days in filing the appeal is condoned and the application is allowed.

CM-13706-C-2017

Application is allowed. Deficiency in Court fee has already been made good. Delay, if any condoned.

Main Case

Defendants-appellants are in the regular second appeal against the concurrent finding of fact arrived at by the Courts below while decreeing the suit for recovery of Rs.5,50,000/- along with interest.

Plaintiff-respondent had filed a suit for recovery on the basis of a settlement arrived at between the parties dated 22.07.2010. The settlement was proved on file by examination of PW-2 and PW-3 who are marginal witnesses. One of the marginal witness i.e. PW-2 was examined by the

defendants-appellants who in cross-examination admitted that he had signed the settlement and he signs the documents only after reading the same.

Learned counsel for the appellants has submitted as under:-

1. That the defendants-appellants are running their business from Ratta Gudda and not from Harike.
2. Plaintiff has failed to produce any evidence that any crop was sold by the plaintiff through the firm of defendants.
3. PW-2 has stated that the settlement was hand written whereas the settlement produced on the file dated 22.07.2010 is typed one.

This Court has considered the submissions and with the able assistance of learned counsel for the appellants, has gone through the judgments passed by the Courts below.

With regard to first argument, it is suffice to note that no doubt the defendants-appellants only has the license to conduct business of commission agent at Ratta Gudda but brother of defendant No.2 is running the same business from Harike. Both the Courts have appreciated this fact and recorded a finding that once the settlement deed is proved, which is signed by the defendant, this fact would not make any difference particularly when it is the defendant No.1 who had himself purchased the stamp paper for execution of the settlement deed. It will be noticed that in the written statement, defendant has admitted his signatures, of course it has been pleaded that such signatures were taken when the papers were blank under the pressure from Superintendent of Police (Detective).

Second argument of learned counsel is that the plaintiff has not produced on file any record to prove that the crops were sold through defendant No.2-firm. The present case is based upon the deed of settlement arrived at between the parties. Signatures whereupon are not being

disputed by defendant No.1. Such being the position, the plaintiff discharged the onus once he proved on file the deed of settlement arrived at between the parties.

Next argument of learned counsel for the appellants is that PW-2 has admitted that the document was hand written whereas the settlement deed dated 22.07.2010 is a typed one. In the considered opinion of this Court, this would also not make any difference particularly when the defendant admits his signatures on the settlement deed dated 22.07.2010 produced on the file.

In view thereof, this Court does not find any good ground to interfere with the concurrent finding of fact arrived at by the Courts below.

Appeal is dismissed.

20.03.2018
Dinesh Bansal

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	Yes / No
Whether Reportable	Yes / No