

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

**RSA No.1392 of 2019 (O&M)
Date of decision: 03.09.2019**

Sanjeev Chabra

.....Appellant

Versus

Sandeep Kumar

.....Respondent

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Naveen Bawa, Advocate,
for the appellant.

Ritu Bahri, J.

CM No.3589-C of 2019

For the reasons mentioned in the application, same is allowed and delay of 60 days in filing of the appeal is condoned.

RSA No.1392 of 2019 (O&M)

This appeal has been filed against the judgment dated 21.08.2018 passed by the Additional District Judge, Barnala, dismissing an appeal filed by defendant-appellant (hereinafter referred to as 'the defendant') against the judgment and decree dated 18.07.2016 passed by the Civil Judge (Junior Division), Barnala, whereby suit filed by plaintiff-respondent (hereinafter referred to as 'the plaintiff') for recovery of Rs.1,24,950/-, has been decreed.

Sandeep Kumar-plaintiff (respondent herein) filed the above said suit with the averments that defendant was supplier of products of ONS Company. It was agreed between the parties that the defendant would purchase the products of ONS Company for a sum of Rs.1,05,000/- for the

plaintiff. Accordingly, in the month of May, 2013, plaintiff got deposited

Rs.65,000/- in the account of the defendant, which was being maintained in Corporation Bank. Similarly, in the month of June, plaintiff deposited another sum of Rs.40,000/- in the account of defendant. The defendant had agreed that after purchasing the products from ONS Company, he would supply the same to the plaintiff. However, despite making repeated requests, neither the defendant had supplied the aforesaid products, as agreed, nor returned the amount to the plaintiff. In this regard, plaintiff served a legal notice dated 19.01.2015 upon the defendant, but he did not reply the same. . Hence, the suit.

Upon notice, defendant filed written statement, wherein allegations made in the plaint were denied and prayer for dismissal of the suit was made.

From the pleadings of the parties, following preliminary issues were framed by the trial Court:-

1. Whether the plaintiff is entitled to recovery of Rs.1,24,950/-, which includes Rs.1,05,000/- as principal amount and Rs.19,950/- as interest calculated @ 12% per annum from June, 2013? OPP
2. Whether the suit of the plaintiff is not maintainable in the present form? OPD
3. Whether the suit of the plaintiff is bad for mis-joinder and non-joinder of necessary parties? OPD
4. Whether the plaintiff is estopped from filing the suit by his act and conduct? OPD
5. Whether the defendant is entitled to special costs from the plaintiff of Rs.50,000/-? OPD
6. Relief.

Trial Court, after hearing learned counsel for the parties, decreed the suit. Appeal against the said judgment also met the same fate.

Heard. A perusal of the impugned judgments shows that

defendant-appellant has not disputed that the amounts of Rs.65,000/- and Rs.40,000/- deposited by the plaintiff in the months of May and June, 2013, were not credited in his account. Deposit of the above amount in his individual account has been admitted by the defendant. Defendant had admitted that Ex.D17 to Ex.D23 bears no signatures of the plaintiff. During trial, defendant did not produce any billity regarding delivery of articles to the plaintiff through Ex.D4 to Ex.D16. Since, the defendant had admitted the receipts Ex.P3 to Ex.P9, whereby plaintiff had deposited the amount in his bank account, the suit has been rightly decreed by the Courts below. Moreover, plaintiff also served a legal notice upon the defendant, to which, he gave no reply.

In view of the above discussion, this Court is of the view that defendant-appellant has failed to lead any cogent and convincing evidence to show that after receiving the aforesaid amount, he had delivered the products to the plaintiff. On the other hand, plaintiff has duly proved on record that in the months of May and June, 2013, he had deposited amounts of Rs.65,000/- and Rs.40,000/- in the account of the defendant. In this backdrop, suit filed by the plaintiff (respondent) has been rightly decreed by both the Courts below. No illegality, much less perversity, has been found in the impugned judgments warranting interference by this Court.

No substantial question of law arises for consideration.

Dismissed.

03.09.2019
ajp

(RITU BAHRI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No