

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

RSA-4418-2019 (O&M)

Date of decision: 26.09.2019

Amarjit Singh

..... Appellant

Versus

Manga Singh @ Mangat Singh

..... Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. Hardip Singh, Advocate for the appellant.

RAMENDRA JAIN, J. (ORAL)

CM-12434-C-2019

For the reasons mentioned in the application which is supported by an affidavit of clerk of learned counsel for applicant-appellant, the same is allowed. Delay of 83 days in re-filing the instant appeal is condoned.

RSA-4418-2019 (O&M)

Through this regular second appeal, appellant-plaintiff has laid challenge to judgment and decree of lower Appellate Court dated 23.01.2019, whereby it reversing the judgment and decree of trial Court dated 27.07.2018 in favour of appellant-plaintiff, accepted the appeal of respondent-defendant.

Briefly, appellant-plaintiff filed a suit against respondent-defendant for recovery of ₹1,00,000/- which was allegedly not paid by

him, after getting constructed his house and renovation work on contract basis. The trial Court, after holding trial decreed the suit vide judgment and decree dated 27.07.2018, in *toto* along with interest @ 9% per annum, from the time, when construction work was completed i.e. from March, 2011, till realization.

Being aggrieved, respondent-defendant preferred appeal before lower Appellate Court, who after hearing both the sides, accepted the same vide judgment and decree dated 23.01.2019, thereby setting aside judgment and decree of trial Court dated 27.07.2018, dismissed the suit.

Learned counsel for the appellant *inter alia* contends that lower Appellate Court, failed to appreciate that the contract between the parties was oral. Respondent-defendant had orally promised to pay labour charges to the appellant, but kept on postponing the payment, either on one pretext or the other. Learned lower Appellate Court erred in not appreciating that respondent-defendant had admitted engagement of appellant and construction of his house and its renovation from him.

Having given thoughtful consideration to the submissions of learned counsel for the appellant, this Court finds the instant regular second appeal merits dismissal, for the reasons to follow:

There is no documentary proof with the appellant-plaintiff to show as to how much amount, has to be recovered from respondent-defendant. The entire claim of appellant-plaintiff for recovery of ₹1,00,000/- is on oral basis. Thus, lower Appellate Court has rightly

observed that there is no parameter before the Court to assume that a sum of ₹1,00,000/- was due to appellant-plaintiff.

No question of law much less substantial has been raised in the instant regular second appeal. Hence, the same is held not maintainable.

I have carefully gone through the judgment and decree of lower Appellate Court and find no illegality or perversity in the same.

Dismissed.

September 26, 2019
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(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No