

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

**RSA-4532-2019 (O&M)
Date of Decision : 15.10.2019**

Haryana Agro Industries

..... Appellant

Versus

M/s Devi Chand Ishwar Chand and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAMENDRA JAIN

Present : Mr. Padamkant Dwivedi, Advocate
for the appellant.

RAMENDRA JAIN, J. (Oral)

Through this appeal, the appellant-defendant (hereinafter referred to as 'the appellant') has laid challenge to judgment and decree dated 02.07.2019 of the lower appellate court, affirming judgment and decree dated 30.11.2018 of the trial court, whereby suit of the respondents-plaintiffs (hereinafter referred to as 'the respondents') for recovery of Rs.4,46,616/- was decreed.

Briefly, in the financial year 2014-15, on demand, the respondents supplied wheat to the appellant for a total amount of Rs.2,26,90,706/-. However, the appellant instead of making the aforesaid complete payment, deducted Rs.4,46,616/- on account of shortage in the weight of the wheat. Thus, the respondents filed a suit for recovery of aforesaid amount of Rs.4,46,616/- alongwith interest at the rate of 18% per annum against the appellant.

The learned trial court after issuing notice and holding trial,

decreed the suit of the respondents vide judgment and decree dated 30.11.2018 in toto, but with reduced interest @ 8% per annum from the date of suit till its actual realization.

Aggrieved against the said judgment and decree dated 30.11.2018, the appellant approached the lower appellate court by filing an appeal which was also dismissed vide judgment dated 02.07.2019.

Heard. Having given my thoughtful consideration to the submissions made by learned counsel for the appellant, this court finds the instant appeal merits dismissal for the reasons to follow.

The alleged shortage in the weight of wheat was never brought to the notice of the respondents before deducting aforesaid amount. Even, no notice was ever served by the appellant to respondents pointing out the alleged shortage in the weight of wheat. Admittedly, the wheat was never weighed in the presence of the respondents, when alleged shortage was found. Therefore, weighment of wheat in the absence of respondents has no legal sanctity.

Perusal of the findings of both the courts below shows that the appellant miserably failed to prove on record any shortage in the weight of wheat allegedly supplied by the respondents. Thus, this Court is not inclined to differ with the concurrent findings of the learned courts below.

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

Dismissed.

(RAMENDRA JAIN)
JUDGE

15.10.2019
mamta

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No