

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

RSA No.1972 of 2014(O&M)

Date of decision: 29.8.2019

Atma Singh

.....Appellant

VERSUS

M/s Samma Singh and Company and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Vinod Khunger, Advocate for the appellant.

Mr. S.K. Arora, Advocate for the respondents.

REKHA MITTAL, J.

Challenge in the present appeal has been directed against judgment and decree dated 20.11.2013 passed by the Additional District Judge, Ferozepur whereby appeal filed by the respondent/defendant No.1 M/s Samma Singh and Company, Commission Agents, against the judgment and decree dated 04.03.2011 passed by the trial Court was allowed and judgment and decree passed by the trial Court was set aside and suit filed by the appellant/plaintiff for rendition of accounts was dismissed.

The appellant/plaintiff Atma Singh filed suit for rendition of accounts on the averment that the firm namely M/s Samma Singh and Company is a commission agent firm through which he sold crops for Sauni 2004. He prayed for settlement of accounts of the appellant and payment of outstanding amount with consequential relief of permanent

injunction restraining the defendants from effecting recovery of a sum of Rs.1,00,000/- through coercive methods by way of harassment, detention or with the help of police.

The suit was decreed by the trial Court to the following effect:-

“The preliminary decree is passed in favour of the plaintiff.

The plaintiff is entitled to the relief of decree of rendition of account with defendant No.1 firm through its partners namely Samma Singh and Gurdev Singh for the crop Sauni 2004 and after settling the accounts of the plaintiff for making the payment amount whatsoever due against the defendants- firm within two months from the date of this decree. Defendants are also restrained from effecting any recovery of alleged amount from the plaintiff through coercive method by way of harassment, detention or with the help of police, except in due course of law...”

The first Appellate Court by relying upon judgment of the Jammu & Kashmir High Court **Jammu & Kashmir Vs. L. Tota Ram, AIR 1971 Jammu & Kashmir 71**, held that the suit is not maintainable. The plaintiff has attempted in converting a suit for a definite sum which he could claim against the defendants into a suit for accounts, a device unknown to law and could not be either upheld or encouraged.

Counsel for the appellant would argue that suit for rendition of accounts in respect of price of crops sold by the appellant through the defendant – concern can be maintained. For this purpose, reliance has

been placed upon judgment of Hon'ble the Supreme Court **K.C. Skaria Vs. Govt. of State of Kerala and another, (2006) 2 SCC 285.**

Counsel for the respondents, on the contrary, would argue that an agriculturist cannot maintain a suit for rendition of accounts against the commission agent and he can only file a suit for recovery of outstanding amount, if any. In support of his contention, he has relied upon judgments of this Court **Bhim Singh Vs. M/s Mewa Singh and Company, 2011 (13) RCR (Civil) 70** and **Rajender Singh Vs. M/s Mangal Trading Co. and others, 2016(3) Law Herald 2105.**

I have heard counsel for the parties and perused the paper-book particularly the judgments passed by the Courts.

Be that as it may, it is undisputed position of the case that as per case of the appellant, he sold his crop through commission agency of M/s Samma Singh and Company and sought rendition of accounts with regard to amount payable to him in respect of price of the produce sold. This Court in **Bhim Singh's case** (supra) has dealt with a similar controversy and held that a suit for rendition of accounts at the behest of an agriculturist against the commission agent is not maintainable unless the plaintiff seeks recovery of specific amount due and outstanding towards the defendant/commission agent. Counsel for the appellant has failed to cite any judgment of Hon'ble the Supreme Court that lays down as a proposition in law that an agriculturist can maintain a suit for rendition of accounts against the commission agent. In view of enunciation in **Bhim Singh's case** (supra), I find myself unable to accept contention of the appellant that the Court in appeal has committed an error much less perversity by accepting the appeal filed by the respondent/defendant(s).

No other point has been raised.

In view of what has been discussed hereinbefore, finding no merit, the appeal fails and is accordingly dismissed, leaving the parties to bear their own costs.

AUGUST 29, 2019
'D. Gulati'

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no