

Sr. No.117

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

RSA No.1022 of 2019 (O&M)

Date of Decision: 10.01.2020

Director, Foods and Supplies Department, Haryana and others
... Appellants

Versus

M/s Balwant Singh Devender Singh and another
... Respondents

CORAM:- HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Ashish Yadav, Additional Advocate General,
Haryana for the applicant-appellant.

ARUN MONGA, J.(ORAL)

CM No.2430-C of 2019

For the reasons stated in the application, prayer for
condonation of delay of 44 days in filing the appeal is allowed.

Delay stands condoned.

Main case

1. The Regular Second Appeal filed before this Court arises out of the First Appellate Court order dated 25.09.2018 whereby the findings returned by the Trial Court qua issue No.6 i.e. whether the suit of the plaintiff is bad for misjoinder of parties and non-joinder of necessary parties, (State of Haryana) has been reversed.

2. The Trial Court was of the opinion that State of Haryana is a necessary party and since the plaintiff had merely impleaded his Department i.e. The Director, Food and Supplies Department, State of Haryana and, therefore, the suit was not maintainable for

mis-joinder of parties.

3. As against aforesaid finding, the First Appellate Court opined that once the plaintiff had made officers of the State a party to the suit, the Trial Court committed an illegality in taking a hypertechnical view that the State was not a party.

4. I am in agreement with the view expressed by the learned First Appellate Court.

5. There is another aspect of the matter which deserves to be noticed i.e. the Director of Food and Supplies Department is also an ex-officio Special Secretary to the State of Haryana and, therefore, State was not required to separately impleaded once its Secretary is a party. Special Secretary of the State in his capacity as Director is empowered to represent the State. In any case, the plaintiff is seeking relief against the Director Food and Supplies Department and there is no occasion for the State to be formally impleaded.

6. In view of the discussion and reasons contained therein, the regular second appeal is dismissed.

7. Pending application, if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

10.01.2020

vandana

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No