

In the High Court of Punjab and Haryana, at Chandigarh

Regular Second Appeal No. 457 of 2010 (O&M)

Date of Decision: 10.01.2020

Market Committee Patiala and Others

... Appellant(s)

Versus

M/s Kaka Ram & Sons

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal

Present: Mr. B.S.Sudan, Advocate
for Dr. Puneet Kaur Sekhon, Advocate
for the Appellant.

Mr. Arvind Rajotia, Advocate
for the respondent.

Anil Kshetarpal, J.

Defendant/appellants, Market Committee, Patiala and its officials, are in regular second appeal, against concurrent judgments passed by the learned Courts below decreeing the suit filed by the plaintiff for declaration and permanent injunction to the effect that the assessment order passed by the Market Committee, Patiala dated 29.02.2000 directing payment of market fee, rural development fund and penalty along with interest at the rate of 18% per annum is illegal, being beyond its jurisdiction.

Plaintiff has taken a stand that the wheat was purchased at Grain Market, Bathinda (Notified Market Yard) and therefore, the Market Committee, Patiala has no jurisdiction.

Both the learned Courts below have adjudicated the aforesaid issue and held in favour of the plaintiff.

Learned counsel appearing for the appellants, while drawing attention of the Court to Form “KK” as produced by the plaintiff to seek exemption from payment of market fee on account of sale of agricultural produce within the area of Market Committee, Patiala is incomplete. He, while referring to Rule 29 of the Punjab Agricultural Produce Markets (General) Rules, 1962 (hereinafter referred to as “the Rules”), submit that the respondent/plaintiff is not entitled to exemption.

It is not disputed by learned counsel for the parties that the aforesaid market fee and rural development fund are payable only once and not multiple times/stages.

It has come on record that the wheat in question was, for the first time, sold in favour of vendor of the plaintiff in the area of Market Committee, Rama Mandi with respect to one transaction and at Bibi Wala Road, Mansa with respect to second transaction. The plaintiff/respondent has purchased the wheat in question from M/s Shiv Trading Company weighing 2016 quintals, whereas wheat weighing 6211 quintals & 20 Kgs was purchased from Fateh Trading Company, Bibi Wala Road, Mansa. An official from the Market Committee, Bathinda has been examined by the plaintiff, who has also referred to “KK Forms” issued by the Market Committee, Rama Mandi and Bibi Wala Road, Mansa. The market fee is payable at first stage.

Both the learned Courts below have set aside the order of assessment passed by the Market Committee, Patiala on the ground that it has no jurisdiction to pass assessment order with regard to purchase made by the plaintiff at Bathinda. However, both the learned Courts below have not

examined the issue as to whether the market fee and rural development fund were ever deposited in respect of the wheat in question, either at first stage or at any subsequent stage.

The exemption under Rule 29 of the Rules is available only on the subsequent sale if it is established that the market fee and rural development fund has already been paid or deposited at any previous stage.

Keeping in view the aforesaid facts, the judgments passed by both the learned Courts below are set aside. The learned trial Court is directed to re-decide the suit after determining the question as to whether on the wheat in question, the amount of market fee and rural development fund was ever deposited at any stage or not.

(Anil Kshetarpal)
Judge

January 10, 2020
“DK”

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