

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

RSA-5460-2018 (O&M)
Date of decision : 10.01.2020

M/s Globe Metal Industries and others

...Appellants

Versus

M/s Maharani Paints Pvt. Ltd.

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Rajinder Goyal, Advocate for the appellants.

ANIL KSHETARPAL, J. (ORAL)

Defendants-appellants are in the Regular Second Appeal against the concurrent findings of fact arrived at by the Courts below decreeing the suit for recovery of ₹1,95,866/- alongwith interest at the rate of 12% per annum w.e.f. 08.05.2009 till realisation.

Plaintiff-respondent had filed a suit claiming that he had business dealings with the defendants as they were being supplied, powder coating material, liquid paints and thinner. In evidence, the plaintiff produced on file invoices, Form-C, as also statement of accounts to prove the liability of the defendants. The defendants admitted the business dealings. However, claimed that only an amount of ₹6213/- is due and payable which they are ready to pay.

On appreciation of evidence, both the Courts have recorded the concurrent findings of fact that the plaintiff is entitled to recover principal

amount i.e. ₹1,95,866/- alongwith interest.

Learned counsel appearing for the appellants has submitted that this amount includes the recovery of amount due against the defendants but in favour of M/s C. Dass Chemicals Private Limited which had merged with the plaintiff-company in the year 2007. He has submitted that since an application for amendment of the plaint was dismissed, therefore, the recovery which was due against the appellant in favour of M/s C. Dass Chemicals Private Limited could not be enforced.

Learned counsel for the appellants, on being confronted, admitted that there is no separate issue framed before the Courts below on this aspect. He also admitted that after merger of the companies in the year 2007, the only existing company is the plaintiff-respondent. The suit was filed on 17.12.2011. On the day, the suit was filed, the existing company is the plaintiff-respondent only. Thus, it is the plaintiff company who is entitled to recover the entire amount.

Keeping in view the aforesaid facts, there is no ground to interfere.

Accordingly, the present Regular Second Appeal is dismissed.

10.01.2020

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**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No