

In the High Court of Punjab and Haryana at Chandigarh

RSA No. 9 of 2019 (O&M)

Date of Decision:6.2.2020

**The Punjab State Cooperative Supply and Marketing Federation
Limited**

---Appellant

versus

M/s Lakhpat Rai Rice & General Mills and another

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Dilraj Singh, Advocate
for Mr. Preeti Singh, Advocate
for the appellant**

Rekha Mittal, J.

Challenge in the present appeal has been directed against concurrent findings recorded by the Courts whereby suit for permanent injunction restraining the respondents-defendants from alienating suit land measuring 24 kanals by way of sale, gift, transfer, mortgage etc., was dismissed by the trial court vide decree and judgment dated 26.5.2016 that came to be affirmed in appeal by the Additional District Judge, Ferozepur vide judgment dated 20.7.2018.

Perusal of the judgments impugned would reveal that appellant had to recover money from M/s K.K. Rice & General Mills, Talwandi Bhai on account of the miller having failed to return the requisite quantity of rice in regard to 'A' grade paddy entrusted for shelling. M/s Lakhpat Rai Rice & General Mills, Zira Road, Talwandi Bhai through its proprietor Smt. Darshana Rani had leased out the sheller to M/s K.K. Rice & General Mills, Talwandi Bhai, during the relevant period. The appellant pressed into

service documents dated 23.9.2010, 2.10.2010, and 6.4.2010 i.e. affidavits purported to be executed by Darshana Rani, proprietor of M/s Lakhpat Rai Rice & General Mills.

The respondents-defendants filed the written statement and denied if any such affidavits were executed by Darshana Rani or her having undertaken any liability in respect of outstanding dues from M/s K.K. Rice & General Mills, Talwandi Bhai with whom the appellant has entered into a contract for milling of paddy.

The Court in Appeal, in para 14 of the judgment, has discussed thread bare testimony of Vishal Gupta, District Manager, Markfed Ferozepur, the only witness examined by the appellant. The Court has held that documents Ex. P5 and P7 are not original documents and these are photocopies. Counsel has neither disputed this factual finding nor contended that photocopies of documents can be read into evidence as secondary evidence of the original when examined in the light of provisions of Section 65 of the Evidence Act. This apart, documents Ex. P5 to P7 were neither executed by Darshana Rani in his presence nor he was conversant with signatures of Darshana Rani to prove the documents, in accordance with law. On the contrary, the respondents-defendants examined Anil Gupta, Handwriting and Finger Prints expert to say that affidavits Ex. P5 to P7 were not executed by Darshana Rani. Taking into consideration findings of the first Appellate Court, I do not find any reason to intervene in concurrent findings recorded by the courts.

For the foregoing reasons, finding no merit, the appeal fails and is accordingly dismissed in limine. As the appeal has been decided on

merits, application for condonation of delay of 54 days in filing the appeal
is of academic relevance.

(Rekha Mittal)
Judge

6.2.2020
PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No