

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

RSA No.1397 of 2020 (O&M)

Date of decision: 12th July, 2022

Sukhraj Singh

... Appellant

Versus

M/s Hans Raj Hamesh Kumar

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Ajay Jain, Advocate for the appellant.

MANJARI NEHRU KAUL, J.

Vide judgment and decree dated 24.08.2018 the suit filed by the plaintiff for recovery of ₹ 1,54,000/- (₹ 1,02,750/- as principal amount and ₹ 51,250/- as interest @ 1.50 % per month upto 30.06.2017) was partly decreed by the trial Court. The appeal preferred by the defendant before the appellate Court was dismissed on 15.01.2020. The defendant is now in Regular Second Appeal before this Court. The parties to the *lis* hereinafter shall be referred to by their original position in the suit.

The dispute in question is as to whether the plaintiff was entitled for recovery of ₹ 1,54,000/- along with interest, as prayed for. It was the pleaded case of the plaintiff that the plaintiff firm was carrying on the business of pesticides and fertilizers at Mandi Dabwali. The defendant had opened an account in the account books of the plaintiff firm in his name. On 11.08.2015, the defendant purchased pesticides and

fertilizers for a sum of ₹ 1,42,750/- vide bill No.16285 dated 11.08.2015 on credit basis from the plaintiff firm, for which the defendant had also signed the bill book of the plaintiff firm. On 23.12.2015, the defendant deposited a sum of ₹ 40,000/- with the plaintiff firm which was duly credited to his account. The defendant had promised to pay interest @ 1.50 % p.m. on the aforementioned amount which came to ₹ 51,250/- upto 30.06.2017. Hence, the total outstanding amount against the defendant was in the sum of ₹ 1,54,000/-. Even though, a legal notice was issued by the plaintiff to the defendant on 14.06.2017, asking him to make payment of the outstanding amount, but in vain, and in fact he did not even reply to the notice.

In the written statement filed by the defendant, he denied the purchase of pesticides and fertilizers, as claimed in the plaint by the plaintiff. He also denied having deposited any sum of ₹ 40,000/- with the plaintiff firm on 23.12.2015. Rather, he submitted that he had purchased the pesticides from the plaintiff firm on cash basis and not on any credit basis, as had been falsely claimed by the plaintiff. It was also alleged that all the entries, on which the plaintiff was placing reliance, including the account books, signatures of the defendant on the bill book etc., were nothing but false and fabricated documents.

Both the courts below, on the basis of the material on record and the evidence produced, concluded that the plaintiff had proved that the defendant purchased the pesticides for a sum of ₹ 1,42,750/- from the plaintiff firm on credit basis and on 23.12.2015 out of the said amount the

defendant had paid a sum of ₹ 40,000/- to the plaintiff firm. Hence the outstanding amount due towards the defendant was ₹ 1,02,750/-. The courts below however concluded that the plaintiff had failed to prove any such agreement between the plaintiff and the defendant that the latter was to pay interest @ 18% p.a. to the plaintiff firm against the outstanding amount.

The learned counsel appearing for the defendant has reiterated and maintained his stand taken before the courts below by arguing that the defendant had neither purchased the pesticides and fertilizers, as alleged by the plaintiff, on 11.08.2015 nor had he ever deposited any sum of ₹ 40,000/- with the plaintiff firm on 23.12.2015. He has further argued that as far as signatures of the defendant on the said bill Ex.P1 are concerned, they had been obtained by the plaintiff under the pretext of the defendant being responsible for the use of the purchased pesticides and its seal being in a proper condition. Learned counsel further argued that the signatures of the defendant had been later misused to their advantage by the plaintiff firm and this had to be appreciated in the light of the fact that there were no signatures of the defendant in the account books of the plaintiff firm which in turn lent credence to a false claim having been raised by the plaintiff in the suit for recovery.

I have heard learned counsel for the appellant and perused the relevant material on record.

It is not disputed by the defendant that he had been purchasing pesticides from the plaintiff firm. Rather, the factum of defendant being a regular customer of the plaintiff firm can be discerned from the fact that the plaintiff handed over pesticides amounting to ₹1,42,750/- on credit basis to the defendant. It can not be believed that had the plaintiff and the defendant been strangers to each other, the firm would have agreed to have any business dealings with him on credit basis. Ex.P1 i.e. the bill, clearly reveals that the defendant's name has been mentioned therein and still further the endorsement on it shows that against the word 'credit' a tick mark has been put. The least that the defendant could have done in support of his case was to produce the cash memo which would/may have been issued to him in order to show that the word 'credit' had been introduced later-on and was not in existence when the sale transactions qua the pesticides took place between him and the plaintiff firm. In fact, the pleas of the defendant on the face of it are self-contradictory, as on the one hand he has denied any sale transaction having taken place as reflected in the bill Ex.P1 and on the other hand he has disputed the pleaded case of the plaintiff by contending that his signatures on the bill Ex.P1 were only qua the verification of packing etc. of the sold articles. A further dent is created in the case of the defendant not only from the fact that he has admitted his signatures on cash memo/bill Ex.P1 but even copies of the bahi entries Ex.P2 to Ex.P6 corroborate that with respect to document Ex.P1, the defendant has been shown to be a creditor.

On being pointedly asked, learned counsel failed to bring to the notice of this Court any material on record from which it could be inferred that the conclusions drawn by both the courts below were either contrary to the record or suffered from any material illegality. In view thereof, the appeal being devoid of any merit stands dismissed in limine.

(MANJARI NEHRU KAUL)
JUDGE

July 12, 2022
rps

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