

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

RSA-813-2022 (O&M)

Date of decision: 18.04.2022

Veer Singh

....Appellant

Versus

Bachhal Fresh Mushroom Farm and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Hamid Hussan, Advocate for the appellant

ANIL KSHETARPAL, J (Oral)

The plaintiff assails the correctness of the finding of fact arrived at by the First Appellate Court reversing the judgment and decree passed by the trial court.

Appellant-Veer Singh filed a suit for grant of decree of mandatory injunction directing the defendants to refund the amount of Rs.65,000/- alongwith interest at the rate of 6% per annum from the date of filing of the suit till the date of decree. The plaintiff claims that he purchased compost seeds of Mushroom from the defendants on payment of Rs.65,000/-, however, despite taking complete precautions, no production ever took place.

The defendants contested the suit claiming that they are in the business of supply of specialized compost for the crop of Mushroom and not its seeds. It is admitted that the plaintiff purchased compost for the crop of Mushoroom from the defendants not only this time but previously also. The plaintiff, after paying Rs.50,000/- through a cheque, has failed to pay the remaining amount. The trial court decreed

the suit however, learned First Appellate Court has reversed the judgment and decree passed by the trial court. The plaintiff has failed to produce any documentary evidence or invoice to prove that he purchased the compost seeds of Mushroom from the defendants. On appreciation of the oral evidence, the First Appellate Court has recorded a finding of fact. The court has also examined that the compost is a mixture of the ingredients used to fertilize and improve the health of the soil. It is commonly prepared by decomposing plants and food waste and recycling the organic material. The seed on the other hand, is a small embryonic plant enclosed in a covering called the seed coat.

The plaintiff has also failed to produce any expert to prove that the compost for growing Mushrooms necessarily has the seeds in it.

Thus, the First Appellate Court reversed the judgment and the decree passed by the trial court.

Heard learned counsel representing the appellant and with his able assistance perused the judgment passed by the court below as well as the copy of the oral evidence, which was produced by the learned counsel representing the appellant. Learned counsel contends that the evidence of the plaintiff stood corroborated by the statement of Bachna Ram, another farmer. He submits that the First Appellate Court has erred in reversing the findings of the fact arrived at by the trial court.

As per the scheme of the Code of Civil Procedure, 1908, the First Appellate Court is the last court of the findings of fact. The First Appellate Court, on appreciation of evidence, has found that there is no

evidence to prove that the plaintiff purchased Mushroom seeds alongwith the compost. No expert has been examined to prove that the compost prepared for Mushroom necessarily has the seeds of Mushroom. In these circumstances, the Court is left with only the oral evidence. On the reading of the depositions, it is evident that the First Appellate Court has formed an opinion, which is plausible.

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

Hence, dismissed.

All the pending miscellaneous applications, if any, are also disposed of.

18.04.2022

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE