

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

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**RSA-2932-2018(O&M)
Date of decision: 08.08.2022**

DTS CARGO PRIVATE LTD

..Appellant

Versus

KAMALJIT SINGH MALHI

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: None for the appellant.

Mr. Akaant Kumar Mittal, Advocate
for respondent.

ANIL KSHETARPAL, J(Oral)

Called twice.

The learned counsel representing the appellant did not come forward to attend the hearing.

On 04.07.2022, the learned counsel representing the appellant did not come forward to press the appeal though, there was no justification, however still, while adjourning the case, the office was requested to inform the learned counsel representing the appellant.

As per the office note, the learned counsel representing the appellant has been informed about today's date. However, the position is no different.

This Court has carefully read the judgments passed by the Courts below. The appellant is a defendant. Both the Courts have decreed the suit filed by the plaintiff for recovery of Rs.4,63,683/- along with the interest at the rate of 9% per annum. It is the case of the plaintiff that the defendant as a transporter, engaged the services of the plaintiff for running its business at Ludhiana. The plaintiff is also a transporter. A regular account was maintained by both the parties. The plaintiff claim, that on settlement of the account, it was

found that the defendant is indebted to pay Rs.4,63,683/-.

The defendant, while contesting the suit, submitted that the plaintiff was inducted as a local partner for running the business at Ludhiana, however, he started, directly, contacting the customers of the defendant. The defendant further asserted that the balance payment of Rs.4,63,683/- was paid in cash.

Both the Courts, on appreciation of evidence, have decreed the suit. Before the First Appellate Court, the defendant changed its stand and submitted that the amount has been adjusted towards late delivery charges and difference in the freight. The First Appellate Court found that such defence is not made out from the record.

On reading of the grounds of appeal, it is evident that the appellant does not assert that there is any material error on account of misreading, non-reading or non-consideration of evidence which goes to the root of the case.

The appellant has proposed the following questions of law:-

- “1) Whether Ld. Lower Appellate Court below has properly appreciated the facts, evidence and law settled by Hon'ble Apex Court at the time of passing of judgment and decree under challenge?*
- 2) Whether the Respondents have sufficiently proved the pleadings on the basis of evidence led by them?*
- 3) Whether the impugned judgment and decree under challenge is wrong, perverse, illegal and deserves to be set aside?*
- 4) Whether onus to prove his case is on plaintiff or his case be proved from lacuna in respondent case as well?”*

It is evident that none of the questions of law as proposed arises in the present case.

Hence, dismissed.

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

August 08th, 2022

(ANIL KSHETARPAL)
JUDGE

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No