

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

CR-3136-2013(O&M)

Date of decision:-28.2.2023

M/s Lakshmi Trading Company

...Petitioner

Versus

Balwan

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Jasmer Singh Rozera, Advocate
for the petitioner.

Mr.Vikram Rana, Advocate
for the respondent.

H.S. MADAAN, J.

1. Briefly stated, facts of the case are that plaintiff Balwan had filed a suit for recovery against defendant M/s Lakshmi Trading Company Commission Agent, New Grain market, Madlauda, District Panipat, on the assertions that the plaintiff had sold his paddy crop to defendant regarding, which the defendant had got issued Form J having serial No.12 dated 13.11.2022 in favour of the plaintiff and assured to make payment of Rs.2,01,091.96 within one week, however, the defendant did not make the payment at that time and sought further period of one month; thereafter despite being demanded, defendant failed to make the payment and rather refused to do so, giving rise to a cause of action to the plaintiff to bring the suit.

2. On notice, the defendant appeared and filed a written

statement contesting the suit contending that no amount was due from the defendant to the plaintiff and rather Rs.4,41,375/- was payable by the plaintiff to the defendant. The defendant prayed for dismissal of the suit.

3. As a matter of fact the defendant had filed a counter-claim for recovery of Rs.6,80,560/-, which was contested by the plaintiff.

4. Issues on merits were framed. The plaintiff had produced his evidence. When the case was at the stage of leading evidence by the defendant, it filed an application in the trial Court for taking specific signatures of plaintiff in English and to send the same to expert to compare with signatures of plaintiff in Bahi/daybook placed on the file. The defendant had asserted that it was to realize an amount of Rs.4,41,375/- from the plaintiff after adjusting amount of Rs.2,39,185/- payable by defendant to the plaintiff. According to the defendant, the plaintiff had taken the amount from it on different dates putting his signatures in English in Bahi but he had denied his signatures when he got his statement recorded in the Court as PW1. Therefore, the application in question was filed.

5. The application was resisted by the plaintiff, who denied having put signatures on Bahi/daybook maintained by defendant and prayed for dismissal of the application.

6. The trial Court vide order dated 30.4.2013 had dismissed that application. For ready reference, the operative part of the order is being reproduced as under:-

5. The suit has been filed by plaintiff regarding the paddy sold by him to defendant and plaintiff has denied to have borrowed any

amount from defendant. Plaintiff has denied to have put signatures in the bahi of defendant and as per plaintiff he always put signatures in Hindi. It is not a case for rendition of account and defendant has also not sought any relief of recovery and has also not filed any counter claim. There mere pleadings of defendant that the bahi entries bear signatures of defendant do not require the comparison of signatures of plaintiff and mere denial of signatures by plaintiff on documents Mark – A to C also does not entitle defendant to get the signatures of plaintiff compared through Hand Writing Expert. The application has been moved by defendant when the case was fixed for evidence of defendant with last opportunity. Defendant has already availed three opportunities to lead evidence and he has led no evidence. The application appears to have been moved to delay the proceedings of the case.

6. *In view of above said mere denial of suggestion put to plaintiff in his cross examination that the bahi entries do not bear his signatures does not require the comparison of signatures of plaintiff with bahi entries, more so when defendant has admitted the paddy sold by plaintiff to him as per pleadings.*

7. Such order left the defendant aggrieved and it has approached this Court by way of filing the present revision petition, notice of which was issued to the plaintiff, who put in appearance through counsel.

8. I have heard learned counsel for the parties besides going through the record and I find that there is absolutely no merit in the revision petition.

9. The impugned order passed by the trial Court is quite detailed and well reasoned and it does not suffer from any illegality or infirmity and is not having any element of arbitrariness or perversity. The discretion has been exercised by the trial Court in a proper and judicious manner. The revisional jurisdiction of this Court is quite limited and considering the facts and circumstances of the case, there is no reason to interfere with the impugned order by way of exercising the revisional jurisdiction.

10. Finding no merit in the revision petition, the same stands dismissed.

The interim order dated 16.5.2013 passed by this Court staying passing of final order by the trial Court thus comes to an end.

Since the proceedings in the trial Court came to halt on account of interim order passed by this Court, which remained in operation for more than 9 years, the trial Court is directed to make earnest efforts for conclusion of the trial and its early decision in an expeditious manner.

Since the main revision petition has been dismissed, the miscellaneous application(s), if any, stand disposed of accordingly.

However, nothing discussion above shall have any bearing on the final merits of the case.

28.2.2023
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No