

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

RSA No. 555 of 1992 (O&M)

Date of decision : 24.1.2023

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Krishan Lal Bansal

.....Appellant

vs.

State of Haryana and others

.....Respondents

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: None for the appellant

Mr. Karan Jindal, Assistant Advocate General, Haryana.

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H. S. Madaan, J.

1. As per report by the Registry, notice to counsel for the appellant has been sent, but there is not representation on behalf of the appellant. Since the case relates to the year 1992, as such I proceed to decide the same, with the assistance of learned State counsel and after going through the record.

2. Briefly stated, facts of the case are that plaintiff – Krishan Lal Bansal had brought a suit against defendants – State of Haryana through Collector Sirsa; Director of Industries, Haryana; General Manager, District Industries, Sirsa and Secretary Industry Department, Haryana, Chandigarh, for recovery of Rs.16,939/- i.e. Rs7,150/- deposited as contract money and Rs.7,150/- deposited as security money with defendant No.3, Rs.429/- spent on purchase of

stamps for execution of agreement alongwith Rs.2,210/- as interest etc. @ 12% per annum on the amount deposited and on the basis of receipt and other documents.

3. According to the plaintiff he is a saltpetre contractor, and he was the highest bidder for saltpeter quarries of village Mangala in the auction for the period from 21.12.1983 to 31.10.1984. His bid was accepted. Thereafter he deposited Rs.7,150/- as contract money and a similar amount as security, total being Rs,14,300/-, which amount was 50% of the total bid amount of Rs.28,600/-. As per terms of the contract, the defendants were required to hand over the possession of the quarries to the plaintiff but it was not done. The plaintiff had drawn a draft of Rs.2,860/- on the State Bank of India in favour of the Collector, Sirsa, being 10% of the bid money as compensation amount payable to the private land owners. According to the plaintiff since he was not allowed mining on account of omission on part of the defendants, feeling aggrieved, he brought the suit seeking recovery of that amount with interest and costs.

4. On notice, the defendants appeared and filed a written statement, constating the suit, contending that on 18.5.1984, Mining Inspector of the area accompanied by Mining Guard had visited the quarries and found the labour of the plaintiff working there. Therefore, the assertion of the plaintiff that land owners where the quarries are located, did not permit him to extract saltpetre is incorrect. According to the defendants, there was not dispute for the settlement of compensation between the land owners and the contractor – plaintiff, therefore, provisions of clause 18 of the

agreement qua settlement of compensation by the Collector was not applicable. According to the defendants, the plaintiff had duly extracted the saltpetre from the quarries in question and he had not suffered any loss. The defendants relied upon the report of S.D.O. (C) Sirsa in that regard, stating that the plaintiff had remained in possession of the quarries till 31.10.1984 and he is liable to pay the balance amount of contract money amount of Rs.14,300/- alongwith interest. The defendants prayed for dismissal of the suit.

5. Plaintiff filed replication to the written statement, controverting the assertions made therein and reiterating the stand taken in the plaint. From the pleadings of the parties, following issues were framed :-

- 1) Whether the plaintiff is entitled for the recovery of Rs.16,939/- as alleged in the plaint? OPP
- 2) Whether the plaintiff is entitled for interest, if so, to what rate? OPP
- 3) Whether the plaintiff is liable to pay the contract money to the tune of Rs.14,300/- and interest amount of Rs.1930/50 as alleged in para 18 of the written statement ? OPD
- 4) Whether the defendant State failed to perform their part of the contract for lease of the land for extracting saltpetre in as much as the plaintiff was not admitted to enter the land ? OPP
- 5) Relief.

6. Parties were afforded adequate opportunities to lead

evidence in support of their respective claims.

7. After hearing the arguments, vide judgment dated 7.8.1990, passed by Sub Judge Ist Class, Sirsa, suit of the plaintiff was decreed with costs for recovery of Rs.16,939/- alongwith interest @ 6% per annum from the date of filing the suit till realisation of the entire amount.

8. The judgment and decree passed by the trial Court were challenged by the defendants before the District Court at Sirsa. That appeal was assigned to Additional District Judge, Sirsa, who vide judgment dated 9.9.1991, reversed the judgment and decree passed by the trial Court and dismissed the suit filed by the plaintiff.

9. Feeling aggrieved, the plaintiff has brought the regular second appeal before this Court, notice of which was given to the respondents, who have appeared through State counsel.

10. After going through the judgments passed by the trial Court and that of the Ist Appellate Court, I find that the judgment passed by the Ist Appellate Court of Additional District Judge, Sirsa, which is under challenge in this appeal, is much more detailed and well reasoned. All the facts and circumstances of the case have been taken into consideration and evidence adduced by the parties has been analysed in a very minute and proper manner, while coming to the conclusion that either the plaintiff was creating a hoax from the very beginning or after initial obstructions, he was never prevented from taking out saltpetre by the land owners and for that reason he did not bother to contact the Collector, Sirsa for

depositing the amount of compensation and for helping him in taking possession of the land. Therefore, it cannot be said that it was the defendants, who were guilty of not performing their part of agreement. In that way, the plaintiff was not entitled to recover any amount from the defendants. Therefore, the findings of the trial Court on issues No. 1, 2 and 4 were reversed. Whereas the judgment by the trial Court does not come out to be the result of proper appraisal and appreciation of evidence and correct interpretation of law and it was rightly upset by learned Additional District Judge, Sirsa, while disposing of the first Appeal. It may be mentioned here that the plaintiff had filed cross objections in the appeal before the Additional District Judge, Sirsa. Those were found to be time barred and on account of reversal of findings of the trial Court on the merits of the case, thus were rejected.

11. I do not find any illegality or infirmity in the judgment passed by the Ist Appellate Court of the Additional District Judge, Sirsa, which might have called for interference by this Court in the regular second appeal.

12. No substantial question of law arises in the present appeal.

13. The appeal is found to be without any merit and the same stands dismissed accordingly.

24.1.2023
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(H.S. Madaan)
Judge

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