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

**RSA No.1731 of 2015 (O&M)
Date of Order:22.11.2023**

M/s Satish Aggarwal and Co.

.Appellant

Versus

Punjab Mandi Board ..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

**Present: Mr. S.K.Mahajan, Advocate
for the appellant.**

**Mr. S.S.Meelu and
Mr. Joy Preet Meelu, Advocate
for the respondent.**

ANIL KSHETARPAL, J

1. In this regular second appeal, the correctness of the concurrent findings of fact arrived at by the courts below is assailed by the plaintiff.

2. In order to comprehend the issue involved in the present case, the relevant facts, in brief are required to be noticed.

3. The plaintiff filed a suit for decree of permanent injunction restraining the defendant from recovering any amount in compliance of notice dated 20.10.2010. The respondent-Punjab Mandi Board received notice from the Provident Fund Commissioner complaining that the provident fund of the workers employed on various projects has not been deposited. The respondent-Punjab Mandi Board contested the aforesaid notice, however, the competent authority found that the provident fund of various workers has not been paid with respect to the petitioner from November, 1996 to March, 2009. Ultimately, the respondent-Punjab Mandi Board deposited Rs.1,41,00,000/-. This represent 25% of the total assessed

amount. The dispute with regard to final assessment is stated to be pending.

4. The plaintiff filed a suit claiming that the entire payment has already been deposited with the competent authority in the office of the Provident Fund Commissioner. Certain receipts in support of the case were also produced.

5. Both the courts on appreciation of the evidence have found that the plaintiff has failed to prove that they have paid the entire amount of the provident fund with respect to the workers employed by them. Thus, the courts below have dismissed the suit.

6. The learned counsel representing the appellant submits that the final order of assessment is yet to be passed and the appellant has paid a certain amount in the office of Provident Fund Commissioner. He further submits that the suit filed by the plaintiff should not be dismissed.

7. On the other hand, the learned counsel representing the respondent-Punjab Mandi Board submits that only a proportionate amount is sought to be recovered from the plaintiff (appellant) and as and when the final assessment order is passed, the necessary steps shall be taken. He submits that the workers were employed by a contractor, namely, the plaintiff and the respondent-Punjab Mandi Board was required to pay lump-sum and it was the duty of the contractor to pay the provident fund.

8. As already noticed, the plaintiff has filed the suit for decree of permanent injunction to restrain the defendant from recovering the amount. It is not in dispute that the respondent-Punjab Mandi Board has been forced to pay the amount by the Provident Fund authorities. The aforesaid amount is payable by the contractors. Even if the paid amount represents 25% of the total dues, still the respondent-Punjab Mandi Board is not liable to pay the

remaining amount. In these circumstances, subject to the final adjustment, the recovery notice issued by the respondent-Punjab Mandi Board calling upon the appellant to deposit the amount does not suffer from any error or perversity.

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

10. Dismissed.

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

November 22, 2023 **(ANIL KSHETARPAL)**
nt **JUDGE**

Whether speaking/reasoned :YES/NO
Whether reportable :YES/NO