

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

(131)

**RSA-2548-2022 (O&M)
Date of Decision: 14.09.2023**

Galaxy Plywood Industries Pvt. Ltd. and Anr.

...Appellants

Versus

M/s Nirmal Trading Company

...Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr.Munish Mittal, Advocate, for the appellants.

Mr.Randhir Singh Hooda, Advocate, for the respondent.

HARKESH MANUJA, J.(ORAL)

1. By way of present appeal, challenge has been laid to the judgments and decrees dated 20.08.2019 and 03.08.2022 passed by the Courts below whereby suit for recovery for a sum of Rs.2,30,344/- along with interest thereupon, filed at the instance of respondent/plaintiff has been decreed in its favour.

2. Briefly stating, a suit for recovery was filed at the instance of respondent/defendant against appellants/respondents on account of certain purchases having been made at their instance.

3. Upon notice, suit was contested while pointing out towards the quality of material supplied by the respondent/plaintiff besides raising plea of the same being barred by limitation as well as on account of other legal objections.

4. The trial Court vide judgment and decree dated 20.08.2019 decreed the suit in favour of respondent/plaintiff, holding it entitled to recover Rs.2,30,344/- along with interest 6% per annum from the date of filing the

suit till its realization.

5. Aggrieved thereof, appellants/defendants filed the first appeal, however, the same was dismissed vide judgment and decree dated 03.08.2022 passed by the First Appellate Court.

6. Impugning the aforementioned judgments and decrees passed by the Courts below, the only argument raised at the instance of appellants/defendants, is that the suit filed at the instance of respondent/plaintiff was barred by limitation. Learned counsel for the appellants submits that though the plaint was presented on 14.01.2014 i.e. on the last date of limitation however, the requisite Court fee was affixed thereupon on 15.01.2014, thus, making the suit barred by limitation. He also submits that no application under Section 149 C.P.C. seeking extension of time as regards affixation of requisite Court fee was moved at the instance of respondent/plaintiff before the trial Court.

7. While referring to the records of the trial Court, learned counsel for the respondent/plaintiff submits that as a matter of fact an application seeking exemption from filing of Court fee at the time of filing of the suit was moved on 14.01.2014 along with the plaint seeking extension of time for the reason that the Court fee was not available with the stamp vendor on that day and the same was thereafter affixed on the next date i.e. on 15.01.2014 thereby making good deficiency of the requisite Court fee and thus the suit was within limitation.

8. I have heard learned counsel for the parties and gone through the paper book. I am unable to find substance in the submissions made on behalf of appellants/defendants.

9. A perusal of the record shows that an application was moved on

behalf of respondent/plaintiff on 14.01.2014 at the time of presentation of

plaint before the trial Court for seeking extension of time from filing of requisite Court fee on the plaint on account of the Court fee not being available with the stamp vendor on the said date. Thereafter, the Court fee made good on 15.01.2014 i.e. the next day on which the plaint was put up before the Court. In this view of the matter there was no delay on the part of the respondent-plaintiff in filing of the suit for recovery. Though, the learned counsel representing the respondent/plaintiff has not been able to point out any order passed by the trial Court on the aforementioned application, the same way not be termed to be fatal as passing of any formal order on the application seeking extension of time to affix Court fee in the facts of present case was just a ministerial act to be performed by the trial Court especially once the plaint was entertained upon affixation of requisite Court fee and the *lis* was adjudicated upon merits. Moreover, no one can be made to suffer on account of fault committed by the Court.

10. In view of the above, the objection raised at the instance of appellants/defendants not being made out from the records and the suit thus being within limitation, finding no merits in the present appeal there being no illegality or perversity in the judgments of the Courts below, the present appeal is hereby dismissed.

11. Pending applications, if any, stand disposed of.

(HARKESH MANUJA)
JUDGE

14.09.2023
anil

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