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

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**RSA-5768-2019 (O&M)
Date of Order: 17.07.2023**

BSC C AND C (JV) KURALI TOLL ROAD CO. LTD

.appellant

Versus

JAGWINDER SINGH ..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

**Present: Mr. Sunil K. Sahore, Advocate,
for the appellant.**

<u>ANIL KSHETARPAL, J</u>

1. The correctness of the concurrent findings of fact arrived at by the courts below is challenged by the defendant. In substance, the dispute is with regard to payment of toll tax barrier charges for a period of 22 months.

2. Admittedly, the plaintiff (respondent) was allotted a contract to recover toll tax barrier charges for vehicles passing through the aforesaid toll.

3. The defendant was awarded the work of development of the road. The vehicles owned by the defendant used to pass through the aforesaid toll. Initially, the defendant filed a suit against the government claiming that no toll tax is payable by the defendant which was dismissed as withdrawn. The plaintiff filed a suit for recovery of the toll amount.

4. On appreciation of the evidence, both the courts have decreed the suit with respect to Rs.4,87,760/- along with interest @ 12% per annum from 01.02.2010 till the date of decree with future interest @ 6% per annum from the date of decree till its realization of the decretal amount.

5. The learned counsel representing the appellant contends that the receipt Ex.D6 dated 15.06.2010 proves that the payment has already been made. Hence, the courts have erred in decreeing the suit.

6. This court has considered the submissions and perused the paper book.

7. It is evident that both the courts on appreciation of the evidence have found that the aforesaid receipt for Rs.43,680/- is the amount of toll tax for the period of 24 days. Thereafter the plaintiff has not paid the toll charges from 26.02.2009 to 31.01.2010. The trial court has found that the suit with respect to toll tax charges from 09.05.2009 onwards is within the limitation of three years. The receipt Ex.D6 pertains to only 24 days, hence, correctly interpreted by the courts below. The appellant failed to produce evidence to prove the payment of toll charges as claimed in the suit.

8. In view of the aforesaid facts and discussion, no ground to interfere is made out.

9. Dismissed.

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

July 17, 2023 **(ANIL KSHETARPAL)**
nt **JUDGE**

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