



RSA-1180-1993

-1-

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

(103)

RSA-1180-1993

Date of decision:- 14.11.2024

Surinder Kumar

... Appellant

Versus

Surjit Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Raj Kumar Gupta, Advocate
for the appellant.

None for the respondent.

SUVIR SEHGAL, J. (ORAL)

1. Appellant-plaintiff is before this Court in the present second appeal assailing the judgment dated 03.02.1993 passed by the Lower Appellate Court whereby an appeal has been allowed and the judgment and decree passed by the Trial Court has been reversed.

2. Pledged case of the plaintiff is that he had issued three bills dated 13.09.1988, 21.09.1988 and 16.11.1988 whereby, the defendant had purchased cloth worth Rs.4408.40 from him on credit. The original bills were handed over to the defendant and their carbon copies were retained by the plaintiff. On 14.12.1988, defendant paid a sum of Rs.1000/- to the plaintiff, which was entered in the cash book as well as the ledger. Defendant had purchased cloth on credit for a total of Rs.7769.50, out of which he had paid Rs.1400/- and the balance amount was outstanding against him. Claiming interest and cost on the balance amount, plaintiff filed a suit for recovery of Rs.7328/-. Upon being served, suit was contested

**RSA-1180-1993****-2-**

by the defendant wherein, while taking various objections, it has been submitted that the defendant used to purchase cloth from the plaintiff on regular intervals on payment. After he noticed some defect in the cloth, he stopped going to the plaintiff's shop and he settled the accounts. Plaintiff filed a replication to the written statement reasserting the stand taken in the plaint. After the parties led evidence and were heard, Trial Court by judgment dated 23.11.1990 decreed the suit. As noticed above, a first appeal, preferred by the defendant, was accepted and the Trial Court judgment and decree was set aside. Plaintiff is now before this Court in the above background.

3. Counsel for the appellant argued that the plaintiff had maintained the cash book and ledger in the normal course of business and has produced them as evidence. By placing reliance upon the judgment of the Supreme Court in *M/s Maruti Ltd. (In Liquidation) and another Versus M/s M.H. Tractor and Automobiles Corpn. and another, 1988 (2) PLR 312*, he contends that the plaintiff's testimony on oath in support of the entries in the books would be sufficient to fix the liability on the defendant.

4. I have heard counsel for the appellant and examined the record with his able assistance.

5. Although, the appellant-plaintiff has produced the carbon copies of the bills as Ex.P-1 to P-3 purportedly issued by him, but he could not establish that the bills were issued on account of purchase of cloth by the defendant. It has come on record that some of the prior bills issued by the plaintiff beared the thumb impression and signatures of the buyers.



RSA-1180-1993

-3-

However, in so far as bills Ex.P-1 to P-3 are concerned, the defendant neither thumb marked nor signed these bills after purchasing cloth on credit. No evidence could be led by the plaintiff to substantiate that the purchase was made by the defendant. Mere entries in the books of account without any supporting evidence is not sufficient to lead to the conclusion that credit purchase was made by the defendant-respondent. Defendant on the other hand in his examination has clearly stated that he had made some purchases from the plaintiff and had cleared the bills. Upon finding defect in the cloth, he stopped business with the plaintiff. In this scenario, the burden to discharge the onus of proving the issue was on the plaintiff, which he has failed to discharge.

6. This Court therefore does not find any illegality in the judgment passed by the Lower Appellate Court, which is hereby affirmed.

7. Appeal being bereft of merit is dismissed with no order as to costs.

(SUVIR SEHGAL)
JUDGE

14.11.2024
Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No