

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-27 of 1994 (O&M)
Date of Order:18.04.2024

Market Committee Bhagta Bhai Ka and others

.Appellants

Versus

Harkishan

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. P.K.S.Gill, Advocate
for the appellants.

ANIL KSHETARPAL, J

1. This appeal has been filed by the Market Committee, Bhagta Bhai Ka to assail the correctness of the concurrent findings of fact arrived at by the courts below while decreeing the plaintiff's suit for recovery of 64 bags of Jaggery weighing 24 Quintals and 96 kilograms or in the alternative for recovery of Rs.13728/-.

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

3. The plaintiff filed a suit claiming that he is proprietor of a kiryana shop with the name of 'Garg Kiryana Store'. His annual turnover is less than Rs.60,000/- per year and the officials of the Market Committee on 02.08.1988, has taken away his jaggery without any reasonable cause. Originally, the plaintiff sent a registered letter on 17.09.1988, and thereafter sent notice on 12.10.1988. Subsequently, the plaintiff filed a suit on 07.03.1989.

4. The defendants contested the suit on the ground that the

plaintiff's turnover was more than Rs.1,00,000/- and hence without a licence from the Market Committee he could not trade in jaggery

5. Upon appreciation of pleadings, the following issues were framed:-

- “1. *Whether the plaintiff has served a notice u/s 31 of the Punjab Agricultural Produce Marketing Act, 1961 before filing the present suit?OPP*
2. *Whether the plaintiff has locus standi to file the present suit?OPP*
3. *Whether the suit is not maintainable in the present form?OPD*
4. *Whether concern of plaintiff M/s Garg Karyama Store was having valid licence for carrying on the business of sale and purchase of Agricultural Produce?OPP*
5. *Whether the plaintiff is entitled to recover that the suit amount from the defendant? If so, from which of the defendant?OPP*
6. *Relief.”*

6. The court came to a conclusion that as per Section 39 of the Punjab Agricultural Produce Act, 1961 (hereinafter referred to as 'the 1961 Act'), the order to seize the goods could not be passed by a Court inferior to that of Magistrate of the First Class. Moreover, it was held that the goods have been taken away without assessing that the plaintiff was required to take the licence as his turnover was more than Rs.60,000/- per annum. Thus, both the courts below decreed the suit.

7. The learned counsel representing the appellants contends that the suit was filed by Sh. Harkishan and it was never filed by the firm. He submits that the suit was required to be filed by 'Garg Kiryana Store'. He further submits that Sh. Chiranji Lal, who is the sole proprietor was required

to file the suit and not his son Sh. Harkishan. He submits that as per Rule 24 of the Punjab Agricultural Produce Markets (general) Rules, 1962, the authority has the power to seize the goods.

8. This court has considered the submissions of the learned counsel representing the appellants.

9. With reference to the first contention of the learned counsel representing the appellants, it has been found by both the courts below that the appellants-Market Committee vide letter dated 04.07.1987 had issued notice to the respondent(plaintiff before the trial court). The plaintiff has also claimed that he is the sole proprietor of 'Garg Kiryana Store'. The Market Committee has not produced any evidence to prove that the plaintiff is not the sole proprietor of the firm. The plaintiff has also produced invoice Ex.P3, which shows that the jaggery was purchased from firm M/s Om Parkash Kamal Kishore by the 'Garg Kiryana Store'. The bill has been produced by the plaintiff. Hence, there is no material to hold that the plaintiff has no locus-standi.

10. The second argument of the learned counsel representing the appellants also lacks substance because it has been found by the courts below that as per Section 39 of the Act of 1961, no order could be passed by a court inferior to that of Magistrate of first class. Moreover, it is not established by the Market Committee that the plaintiff was having turnover of more than Rs.60,000/- per annum which was the condition precedent requiring a licence. Additionally, in this case, the goods were seized without serving any show cause notice.

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

12. Dismissed.
13. All the pending miscellaneous applications, if any, are also disposed of.

April 18, 2024

(ANIL KSHETARPAL)

nt

JUDGE

Whether speaking/reasoned

:YES/NO

Whether reportable

:YES/NO