

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(211)

RSA No. 3593 of 1997 (O&M)
Date of Decision : 22.04.2024

The Punjab State Co-operative Supply and Marketing Federation
Limited, Chandigarh and another

...Appellants

Versus

Nettar Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Sujeet Kumar, Advocate for
Mr. Amar Vivek, Advocate for the appellants.

Mr. Tahaf Bains, Advocate for the respondents.

Harsimran Singh Sethi J. (Oral)

1. The present appeal has been filed challenging the judgment and decree dated 15.04.1993 of the trial court by which the suit filed by the respondent-plaintiff No. 1 challenging the order dated 19.02.1987 imposing recovery on respondent-plaintiff No. 1 of ₹70,056/- along with interest has been held to be bad and not binding upon the respondent-plaintiff No. 1 as well as judgment and decree dated 04.04.1997 of the lower appellate court by which the appeal filed by the appellants-defendants was dismissed.

2. Learned counsel for the appellants-defendants argues that once the allegation of loss alleged against the respondent-plaintiff No. 1

has been proved against him in the departmental enquiry, the Court cannot interfere keeping in view the facts and circumstances of the present case, hence, the order dated 19.02.1987 imposing punishment of recovery upon the respondent-plaintiff No. 1 of ₹70,056/- is liable to be upheld.

3. Learned counsel for the respondents-plaintiffs submits that in the present case, even in the enquiry proceedings initiated against them, it has not been found that there was any malafide intention in shifting the procured wheat from Amargarh to the storage accommodation available at Malerkotla and in the absence of any malafide, the amount incurred for transportation of wheat from Amargarh to Malerkotla could not have been recovered from the respondents-plaintiffs and the courts below have rightly come to the conclusion that said decision of the respondents-plaintiffs was required keeping in view the facts and circumstances of the present case, hence, the judgments and decrees of the courts are liable to be upheld.

4. I have heard learned counsel for the parties and have gone through the record with their able assistance.

5. It may be noticed that the present appeal was filed against the judgments and decrees of the courts below in the year 1997. There is no interim order and it has already come on record that the respondent-plaintiff No. 1 has already died and the judgments and decrees of the courts below already stand executed.

6. Even otherwise, the punishment of recovery of ₹70,056/- was imposed upon the respondent-plaintiff No. 1 only on the ground that the respondent-plaintiff No. 1, who was working as a Branch Manager with the appellants-defendants posted at Malerkotla and was Incharge for purchasing of the wheat for the crop year 1984 and had purchased the wheat, which was to be secured for a period of more than two months before the said purchased wheat was to be dispatched, the same was procured at Amargarh but was stored at Malerkotla. The allegation is that the wheat should have been stored at Amargarh rather than at Malerkotla. The lower appellate court has considered all these facts in paragraph 8 of the judgment, wherein, it has been mentioned that the storage facility at Malerkotla was good as, the wheat was to be stored for a period of more than two months before the same was to be released and further, the situation at Amargarh was tensed as one person was killed by the terrorist and Bhartiya Kisan Union had also started agitation during that period at the said place and in case, the agitation would have continued, the wheat could not have been released in July, 1984 and the decision of the respondent-plaintiff No. 1 was not malafide in any manner but was due to the facts and circumstances prevalent at the relevant time and cannot amount to embezzlement.

7. Once, the finding of a fact as noticed here-in-before has been returned by both the courts below and nothing has been shown to this Court that the said finding was perverse to any evidence, which has come

on record, this Court will not like to interfere at this stage when, the respondent-plaintiff No. 1 has already died and the judgments and decrees of the courts below have already been complied with.

8. Keeping in view the fact that no perversity in the impugned order has been shown to this Court, no ground is made out for any interference in the present appeal.

9. Dismissed.

Pending miscellaneous application, if any, also stands disposed of.

April 22th, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No