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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

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Date of Decision: 15.01.2024.

M/s Friends Traders and another

...Appellants.

Versus

Paramjit Singh

....Respondent.

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Present: Ms. Harveen Kaur, Advocate
for the appellants.

Sukhvinder Kaur, J.

The instant Regular Second Appeal has been filed by defendants/ appellants against the concurrent findings recorded by both the Courts below vide which suit of the plaintiff was partly decreed.

2. Brief facts of the case as per plaint are that the plaintiff used to sell his agricultural produce through the commission agency of defendant No.1 firm and sold paddy weighing 94.50 quintals at the rate of Rs.590/- per quintal for an amount of Rs.55,274.40Ps on 12.10.2004 in respect whereof the defendants issued 'J' Form No.15 in favour of the plaintiff. Thereafter, the plaintiff also sold paddy weighing 106.75 quintals at the rate of Rs.590/- per quintal for the value of Rs.62,439.60Ps on 13.10.2004 through defendant No.1 in respect whereof also, the defendants issued 'J' form No.19 in favour of the plaintiff. Another lot of 91.20 quintals of paddy is claimed

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to have been sold by the plaintiff through defendant No.1 firm at the rate of Rs.590/- per quintal for an amount of Rs.53,343.42Ps on 19.10.2004 against 'J' Form No.61. Thereafter, the plaintiff again claimed to have sold 131.52 quintals of paddy on 29.10.2004 against 'J' form No.75, 105.03 quintals of paddy for Rs.61.433.70Ps on 25.10.2004 against 'J' form No.93, another 146.47 quintals of paddy for an amount of Rs.85.673.26Ps on 26.10.2004 against 'J' form No.93. All these paddy crops were supplied at the rate of Rs.590/- per quintal. In this way, the plaintiff claims to have supplied the total paddy crop to the defendants for an amount of Rs.3,95,091.88Ps in respect whereof the defendants have not paid any amount to the plaintiff. When the defendants did not pay the amount due to the plaintiff despite writing of various letters by the plaintiff to the Market Committee, then the present suit for recovery was filed.

3. The suit of plaintiff was partly decreed by the trial Court, vide judgment and decree dated 17.04.2014. The, the defendant filed appeal before the First Appellate Court which was dismissed, vide judgment and decree dated 14.03.2018 and judgment of the trial Court was upheld. Hence, the present Regular Second Appeal, before this Court has been filed.

4. Learned counsel for the appellants/ defendants has contended that both the Courts below have not appreciated the evidence in the proper perspective. The present suit was filed on 31.05.2006 after more than 1 ½ years and it is not believable that any farmer would wait for such a long period for payment of his crop. Earlier there was litigation between plaintiff and defendant and his wife, wherein plaintiff filed a suit for declaration to

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the effect that sale deed dated 24.03.2003, sale deed dated 28.11.2003 and sale deed dated 01.12.2004 were illegal, null and void and also sought injunction therein. In that case the plaintiff did not take any plea that any amount was due against the defendant while challenging the said sale deeds executed by him in favour of the defendant/appellant. The present suit is outcome of this earlier litigation between the parties. He has also contended that to prove the payment defendant Karanvir Singh himself appeared as DW1 and has also examined the other witnesses. Defendant has also proved Rokar Ex.D1, Khata Ex.D2 and attested copy of cheque No.230772 Ex.DW2/A. He has contended that Ex.D1 and Ex.D2 are books which were being kept in due course of business by the defendant/appellant, wherein the payment made to the plaintiff was entered, but the Courts below have not properly appreciated the said evidence.

5. I have heard learned counsel for the appellant and gone through the record thoroughly.

6. There is concurrent findings of both the Courts below that the plaintiff is entitled to recovery of principal amount of Rs.3,95,091.88Ps alongwith interest thereon at the rate of 9% P.A. from 26.10.2004 till the date of filing the suit. Pendente lite and further interest from the date of filing of the suit till the date of realization of the decretal amount @ 6% P.A. on the said principal amount. The rate and quantity of the paddy crops supplied by the plaintiff to the defendants not remains disputed once defendants came up with the version that the amount due to the plaintiff in respect of entire sale of crops has already been paid by them to the plaintiff.

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So, the dispute remains restricted to adjudication of the fact as to whether the payment of the amount for the paddy crop as supplied by the plaintiff to the defendants was made and this onus was to be discharged by the defendants. But there is only solitary statement of defendant Karanvir Singh is there, who has just stated that the plaintiff had received the entire amount of Rs.3,95,091.90Ps for the crops sold by him to the defendants. Besides that defendants have relied upon the entries in their books of accounts, copies of which have been produced on the record as Ex.D1 and Ex.D2. But none of these entries has been signed by the plaintiff, though it has been stated by defendant during his cross-examination that they used to make payment to the agriculturists by an endorsement as 'Paid' on the backside of the corresponding 'J' forms. But Ex.P1 to Ex.P6, vide which the crops were sold by the plaintiff to the defendants did not bear any such endorsement regarding payment of the said amount to the plaintiff.

7. Defendants have also taken the plea that payment was made to the plaintiff through cheque No.230772 dated 17.11.2004 of State Bank of Patiala. But perusal of this cheque shows that this cheque was not issued in the name of the plaintiff rather it was 'self' drawn cheque and the plaintiff had not signed anywhere regarding such payment. It has also been admitted that vide the said cheque he himself had withdrawn the amount. Keeping in view the above, it has not been proved that the due payment was made by the defendants to the plaintiff, for the price of crops sold and supplied by the plaintiff to the defendants.

8. The trial Court has rightly observed that as there was no writing

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regarding payment or interest, so interest @ 9% P.A. on the principal amount from the date of last transaction on the account i.e. the date of last supply of crops by the plaintiff viz. 26.10.2004 till the date of suit was quite reasonable.

9. By way of additional evidence defendants/appellants want to produce on record original plaint, amended plaint, written statement and replication in Civil Suit No.606 of 10.11.2005. But these documents have no bearing for adjudicating the controversy in the present case. Otherwise also, as this suit was earlier in date then the present suit, so these documents could have been produced by the defendants while leading their evidence, had they exercised the due diligence.

10. For the reasons recorded above, the present Regular Second Appeal must fail as it does not raise any question of law much less substantial question of law.

11. Appeal stands dismissed.

12. All pending applications, if any, also stand disposed of accordingly.

(SUKHVINDER KAUR)
JUDGE

15.01.2024.

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Whether speaking/ reasoned	:	Yes/ No
Whether Reportable	:	Yes/ No