



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

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**RSA-6442-2018 (O&M)
Date of Decision: 18.09.2024**

Jaswinder Singh

....Appellant

Versus

Paramvir Singh and others

....Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present: Mr. Parminder Singh Kanwar, Advocate
for the appellant.

VIKAS SURI, J. (Oral)

CM-18071-C-2018

This is an application under Section 151 CPC for condonation of delay of 974 days in re-filing of the appeal.

The main appeal having been heard on merits and for the reasons mentioned in the application, which is supported by affidavit of the counsel, the present application is allowed, and the delay of 974 days in re-filing the appeal is condoned.

CM stands disposed of.

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1. Plaintiff is in regular second appeal, against the concurrent findings recorded by both the learned Courts below, whereby his suit for recovery of Rs.2,00,000/- as damages on account of illegal and unlawful order



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passed by defendant No.1 against him, was dismissed.

2. The facts in brief, as noticed by the Courts below are that the plaintiff was an employee of Department of Forests in the State of Punjab and after his initial appointment of Forester (Block Officer) on 20.08.1998, got promoted as Forest Range Officer and joined as such on 10.07.2006 at Kathgarh range in Forest Division, Garshankar. Duties of plaintiff were to hand over Muster-rolls to his subordinate field staff, i.e Foresters and to supervise the work of plantation. Vide letter dated 10.02.2000, the State Government had fixed responsibility of Forest Range Officer at 25% with respect to checking work of plantation. The plaintiff was required to get the work done as per the cost estimate circulated by the Chief Conservator Hills (Punjab) and he had been performing his duties and getting the work done strictly in accordance with norms fixed and circulated by the competent authority. Vide letter dated 29.09.2006 the plaintiff had sent estimate of the work to be done in the months of October 2006 to defendant No.1 for information and approval. Being, in-charge of the Division, defendant No.1 prepared and circulated his programme and visited range of the plaintiff on 18.10.2006 and on various other dates during the year. Even though no shortcoming or deficiency was pointed out by defendant No.1 during his visit, he served show cause notice upon the plaintiff dated 21.11.2006 for not doing work with cooperation and directed the plaintiff to improve his working. On 23.11.2006, defendant No.1 informed the plaintiff that after verification of Muster-rolls for the month of October 2006, work worth Rs.88,219/- had been found to be done by the plaintiff without obtaining approval, and without



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pointing out any deficiency in the work so done. Plaintiff submitted his reply to defendant No.1 vide letter dated 24.11.2006 and reply to the show cause notice vide letter dated 25.11.2006 with advance copy to Chief Conservator Hills and conservator Forest Shiwalik Circle for information. Subsequently, vide his letter dated 08.12.2006, defendant No.1 called upon the plaintiff to show cause as to why recovery of Rs.88,129/- be not effected from him as his reply was found unsatisfactory. The plaintiff submitted his reply on 12.12.2006 to that show cause notice, and following which the Chief Conservator Forests directed Conservator to inquire into the matter and submit his report. Subsequently, defendant No.1 approved the Muster-Rolls bills submitted by the plaintiff and sent intimation vide letter dated 18.12.2006, whereafter the amount was released and was ultimately distributed to the labour, by the field staff. On 09.02.2007, defendant No.1 ordered recovery of Rs.88,129/- from the plaintiff which forced him to approach this Court through Civil Writ Petition No.2763 of 2007 and after service of notice of the petition, defendant No.1, vide order dated 13.01.2007, withdrew the order of recovery.

3. In the backdrop of above narration of events, the plaintiff filed a suit for recovery of Rs.2,00,000/- as damages alleging that he had to undergo mental tension, torture and harassment, and he incurred financial loss on avoidable litigation. The said suit was filed after no response was received to the notice under Section 80 CPC having been served upon the defendants. Upon notice of the suit, defendant No.1 (respondent No.1 herein) resisted the suit by filing written statement and raising preliminary objections thereto.



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Defendant Nos.2 to 4 also filed their joint written statement while seeking dismissal of the suit. Separate replications were filed thereto, by the plaintiff. On completion of pleadings of the parties, learned Trial Court framed the following issues:

- “1. Whether plaintiff is entitled to recovery of Rs.2 lakhs on account of damaged caused to the plaintiff by illegal and unlawful order passed by the defendant No.1?OPP
 2. Whether suit is not properly valued for the purpose of court fee and jurisdiction?OPD
 3. Whether plaintiff is stopped from filing the present suit by his own act and conduct? OPD
 4. Relief.”
4. To prove their respective pleaded case, the parties led evidence. Upon appraisal of the rival submissions and the evidence brought on record, the learned Trial Court dismissed the suit vide judgment dated 01.07.2014 by observing as under:

“13. I have considered the rival contentions and have gone through the oral as well as documentary evidence on record. It is settled law that plaintiff has to stand on his own legs and cannot take advantage of any weakness of case of defendants. Plaintiff categorically in his pleadings as well as in his affidavit Ex.PA has mentioned that vide letter No.381K dated 29.09.2006, he had sent the estimate of work to the office of defendant No.1, but no such original letter is proved on record by him, even though he had summoned the official record regarding long run correspondence between him and defendant No.1 and department. In his cross-examination, he has categorically admitted the fact that it is mandatory on the part of Forest Range Officer to get prior sanctioned from the Head Office by sending the estimate of concerned work and only thereafter, the work can be started. There is no document brought on record by plaintiff to establish



the fact that plantation regarding which he was issued show cause notice of recovery was got done by him as per the rules by sending estimate and getting it sanctioned. Ex.P3 to E.P12 copies of correspondence and orders placed on record by plaintiff Cleary established the fact that plaintiff was afforded full opportunity of being heard before passing an order of recovery against him i.e. Ex.P9, meaning thereby departmental remedied were well afforded to plaintiff and rules of natural justice were duly complied with before passing order of recovery against him.

14. Plaintiff himself has admitted in his cross examination that no recovery was effected from him and even otherwise. It is the case of defendants that order dated 09.02.2007 of recovery from plaintiff was taken back on 13.03.2007 by defendant No.1 which is also part of file as Ex.D1. Plaintiff has not placed on record any bill of amount spent by him in lieu of fee paid by him to his counsel or any other financial expenditure incurred by him during the litigation filed in Hon'ble High Court. It was incumbent upon plaintiff to prove on record as to how he has suffered loss to the tune of Rs.2,00,000/- which he has claimed by way of damaged in the present case, though he was afforded full opportunity of being heard by the defendant department as per rules. No recovery was ever effected from plaintiff and he has not suffered any financial loss as claimed by him, whereas defendants have duly established the fact that order of recovery which was later on withdrawn by the defendants was passed in due course of rules and procedure of the department.”

5. Feeling aggrieved, the appellant-plaintiff preferred statutory first appeal, which came to be dismissed by learned first appellate Court, vide judgment and decree dated 16.09.2015, by making the following observations:

“13. Since chronological chain of events is not much in dispute including issuance of show cause notice and order of recovery of Rs.88,129/ upon the plaintiff and the plaintiff taking the matter to the Hon'ble Court and the defendants ultimately accepting



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version of the plaintiff, the only question to be decided in these proceedings is as to whether the plaintiff was harassed and that also with mala fides by defendant No.1 entitling him to damages. It goes without saying that officers vested with supervisory duties have to be vigilant while exercising supervisory check over subordinate staff and whenever they find any shortcoming some sort of action has to be initiated. Every department and so also the department of Forest has of business to take care of wrong or incorrect orders made by one of the supervisory officer. While disposing of Civil Writ Petition filed by the plaintiff, the Hon'ble High Court did not feel like imposing any cost upon the respondents/now defendants. No bill or receipt from his counsel who filed Writ Petition on his behalf has been placed on the file to show as what he may have been charged. He has not given details of any loss suffered by him monetary or otherwise. He continuously received his salary as admitted in his cross examination. He did not personally appear in the Hon'ble High Court. In the absence of any proof of any financial expenditure incurred by him and just for exchanging letters with his seniors within the department the plaintiff cannot project himself as a Holy Cow who should not have been touched at all by this superiors.”

6. Still aggrieved by the judgments and decrees passed by the Courts below, the present regular second appeal, at the hands of the plaintiff, has been filed.

6.1 Learned counsel for the appellant has argued that the appellant was entitled for damages on account of harassment meted out to him and for the consequential loss suffered by the appellant.

7. I have heard learned counsel for the appellant and perused the paper-book.

8. Admittedly, the appellant-plaintiff in the course of his



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employment was served a show cause notice as to why recovery of Rs.88,129/- be not effected from him. The appellant had filed reply to the said show cause notice and the Conservator was directed by the Chief Conservator Officer to enquire into the matter and submit his report. The report indicted the appellant and accordingly, vide order dated 09.02.2007, recovery of the aforesaid amount from the plaintiff was ordered, which order was impugned by the appellant by way of CWP-2763-2007.

9. Concededly, the aforesaid order of recovery was withdrawn and the aforesaid writ petition having been rendered infructuous, was dismissed.

10. A combined reading of the impugned judgments and decrees would make it candid that the appellant had miserably failed to prove his case and no details of any loss suffered by him, monetary or otherwise, were brought on record. On appraisal of the evidence available on record, both the learned Courts below recorded concurrent findings of facts in this regard, which call for no interference in the regular second appeal.

11. Even before this Court in second appeal, no material from the record has been brought to the notice of the Court, from which it could be inferred that any pecuniary loss was suffered by the appellant.

12. During the course of hearing, learned counsel for the appellant has failed to point out any patent illegality or perversity in either of the impugned judgments.

13. No other issue has been raised.

14. In view of the aforesaid, it is clear that the case does not involve any substantial question of law, which is *sine qua non* for exercising appellate



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jurisdiction under Section 100 of the Code of Civil Procedure, 1908. The concurrent finding of facts recorded by the Courts below, have been found to be legally justified and based on proper reasoning. Hence, no case for interference has been made out.

- 15. Resultantly, the present regular second appeal stands dismissed.
- 16. No order as to costs.

September 18, 2024
Varinder

(VIKAS SURI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No