

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

146

RSA No.3985 of 2023(O&M)
Date of Order:06.02.2024

Mobile World

.Appellant

Versus

Chirag Communication Pvt. Ltd.

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Ms. Pooja Jaglan, Advocate
for the appellant.

Mr. Indepreet Singh Kooner, Advocate
for the respondent.

ANIL KSHETARPAL, J

C.M.No.14233-C-2023

For the reasons mentioned in the application, which is supported by an affidavit, the delay of 36 days in filing the appeal is condoned.

C.M.No.14234-C-2023

Allowed as prayed for.

MAIN

1. In this regular second appeal, the correctness of the concurrent findings of fact arrived at by the courts below while decreeing the plaintiff's suit for recovery of Rs.5,25,945.36/- is assailed.

2. The defendant failed to file the written statement, thus, his defence was struck off. Thereafter the plaintiff appeared in the evidence and produced documents. An opportunity was granted to the defendant to cross-examine the witness, however, he refused. Hence, the same was treated as

NIL. Ultimately, the suit was decreed.

3. The defendant's first appeal was dismissed by the First Appellate Court.

4. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paper book.

5. The learned counsel representing the appellant contends that no opportunity was given to the appellant to cross-examine the plaintiff when he appeared in the evidence.

6. On the other hand, the learned counsel representing the respondent draws the attention of the court to para 14 of the First Appellate Court which reads as under:-

“From the perusal of the file it reveals that present case is not a case where the opportunity to cross-examine the plaintiff-witness was not given to the defendant-appellant, rather due opportunity for cross-examination was given to the plaintiff-appellant but he failed to cross-examine the witness and his cross-examination, after giving the opportunity, was stand NIL. Therefore, there is no substance in the contention of the learned counsel for the appellant-defendant that no opportunity for cross-examination of the plaintiff was given to the defendant-appellant.”

7. It is evident that the First Appellate Court has specifically recorded that the defendant was given an opportunity to cross-examine the plaintiff when he appeared in evidence but he failed to cross-examine.

8. The attention of the court has not been drawn to any material to prove that this factual findings of fact recorded by the First Appellate Court is erroneous. The learned counsel representing the appellant did not raise any other argument.

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

10. Dismissed.

11. All the pending miscellaneous applications, if any, are also disposed of.

February 06, 2024
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	:YES/NO
Whether reportable	:YES/NO