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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 643 OF 2014

WITH

CIVIL APPLICATION NO. 1519 OF 2014

INTERIM APPLICATION NO. 6780 OF 2025

IN

SECOND APPEAL NO. 643 OF 2014

Messers Bansasl and Co.

.....Appellant

Vs.

The Agricultural Product Market
Committee, Pune

.....Respondent

Mr. Sudhir S. Hardikar for the appellant
Mr. Murlidhar L. Patil for the respondent

CORAM : GAURI GODSE, J.

DATE : 1st APRIL 2025

ORDER:

1. Heard learned counsels for the parties. This appeal is preferred by the plaintiff to challenge the judgment and decree passed by the first Appellate Court setting aside the trial Court's decree and dismissing the suit. The trial Court had decreed the suit and granted declaration that the defendant is not entitled to collect and recover the maintenance charges from the plaintiff on the basis of the resolution

and bill dated 2nd January 2003. The trial Court granted an injunction restraining the defendant from recovering the maintenance charges at the rate of Rs. 25,000/- per year.

2. Learned counsel for the appellant submits that the defendant committee is not entitled to charge higher amount from the plaintiff as the plaintiff was always dealing with the agricultural produce of the regulated goods as per the schedule of the Maharashtra Agricultural Produce Marketing (Development and Regulation) Act, 1963. He submits that the first Appellate Court has reversed the findings of the trial Court by not correctly appreciating the oral evidence on record. He submits that the circular relied upon by the defendant to charge higher rate of maintenance is an illegal demand as the plaintiff does not fall within the category of traders, who trade into non-regulated agricultural produce for which the resolution is applicable. Learned counsel further submits that the plaintiff is doing business of agricultural produce and thus, the circular relied upon by the respondent and the demand notice dated 2nd January 2003 is illegal as the rates applied are for the non-regulated goods.

3. Learned counsel for the appellant submits that the plaintiff is

granted licence for trading in regulated goods and he had also paid licence fees upto 30th September 2004. He, thus, submits that the first Appellate Court has erroneously casted burden upon the plaintiff to prove that he is not trading into non-regulated goods and therefore, not liable to payment for the non-regulated goods. He, thus, submits that the second appeal would raise substantial questions of law on mis-appreciation of the evidence on record.

4. Learned counsel for the respondent relies upon the findings recorded by the first Appellate Court based on the admissions given by the plaintiff. He submits that the plaintiff has admitted that he is dealing with non-regulated goods alongwith the scheduled goods as per the said Act. He submits that the traders who exclusively deal with only the scheduled products are liable to pay the lesser amount of maintenance charges. He submits that the traders who are dealing in business of the products of non-regulated goods are therefore, liable to pay higher charges as per the circular dated 2nd January 2003. He submits that the said circular is upheld by this court in Writ Petition No. 5255 of 2002. He, therefore, submits that the charges levied by the defendant committee is based on the circular which is applicable to the traders who deal with non-scheduled goods alongwith the scheduled goods.

He submits that the demand made by the committee for higher maintenance is not on the ground that the plaintiff has started dealing with non-regulated goods. He submits that since beginning the plaintiff was always trading with non-regulated goods and the impugned demand is only based on the circular which approves higher rate of maintenance. He, thus, submits that the plaintiff has neither pleaded nor proved that he is dealing only with regulated goods. He submits that the first Appellate Court being the last fact finding Court has dealt with the exhaustive evidence produced on record and held that the admissions given by the plaintiff is sufficient to hold that the plaintiff is also dealing with non-regulated products. He, thus, submits that the second appeal would not require any consideration as it does not raise any question of law.

5. I have perused the papers of the second appeal and the compilation of additional documents placed on record. The plaintiff has challenged the defendant's action of charging maintenance based on the circular at the rate of Rs. 25,000/- per month. The plaintiff further prays for an injunction restraining the defendant from recovering the higher rate of maintenance. A perusal of the pleadings indicates that the plaintiff relies upon the licence for dealing with the agricultural

products and the licence fees paid upto 30th September 2004. The plaintiff's pleadings nowhere indicates that he has raised the challenge to the defendant's demand on the ground that he is not dealing with any non-scheduled goods alongwith the scheduled goods. The grounds raised in the plaint refers to increase in the rate of maintenance. Learned counsel for the appellant points out the licence relied upon by the plaintiff which permits him to deal with the non-scheduled goods. The plaintiff's affidavit indicates that the plaintiff is also dealing with the products which are not listed in the schedule.

6. A perusal of the reasons recorded by the first Appellate Court indicates that the first Appellate Court has dealt with the admissions given by the plaintiff regarding the business carried out by him for non-scheduled and non-regulated agricultural products. The learned Judge has referred to the reply filed by the plaintiff to the defendant's demand. The reasons recorded by the first Appellate Court are based on the material on record coupled with the oral evidence of the plaintiff which indicates admission on his part regarding the business carried out by the plaintiff for non-regulated products alongwith the regulated goods. The first Appellate Court has thus, held that the plaintiff has not discharged his burden to support his submissions that the circular

would not be applicable to the plaintiff as he is dealing with only with scheduled goods. It is not the plaintiff's case that he is dealing only with regulated goods and his business is restricted only to the regulated agricultural goods. Hence, based on the pleadings and the evidence produced by the plaintiff, the conclusions recorded by the first Appellate Court cannot be faulted. The defendant's demand of higher rate towards higher maintenance is not on the ground that the plaintiff has started dealing with non-regulated goods. The defendant's demand is based on the circular approving the higher rate towards the earlier maintenance. Hence, I do not find any illegality or perversity in the reasons recorded by the first Appellate Court.

7. Learned counsel for the appellant points out the application filed for leading additional evidence and framing additional issue. A perusal of the application does not indicate any reason for not producing the evidence at the stage of trial. In the absence of any grounds raised for producing the documents for the first time in the second appeal, I see no reason to allow the application. Hence, the application is rejected.

8. In view of the aforesaid reasons, I see no ground to interfere in the impugned order. The second appeal does not raise any substantial

question of law. Hence, the second appeal is dismissed.

9. In view of dismissal of second appeal, other pending applications are disposed of as infructuous.

[GAURI GODSE, J.]