



RSA-1955 of 2002

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

**RSA-1955 of 2002 (O&M)
Reserved on:03.09.2025
Date of decision : 15.09.2025**

**PUNJAB STATE CIVIL SUPPLIES CORPORATION LIMITED &
ANOTHER**

..... Appellants

VERSUS

MALKIAT SINGH

..... Respondent

CORAM : HON'BLE MR. JUSTICE DEEPINDER SINGH NALWA

Present :- Ms. Sunint Kaur, Advocate
for the appellants.

Mr. Rajeshwar Singh Thakur, Advocate and
Mr. Sanjay Singh, Advocate
for the respondent.

DEEPINDER SINGH NALWA, J.

1. The present appeal has been filed against the judgment and decree dated 13.10.2001 passed by the lower Appellate Court whereby, the appeal filed by the respondent-defendant was accepted, and the cross-objection filed by the appellant-plaintiff was dismissed and also the judgment and decree dated 13.10.1995 passed by the learned trial Court, whereby the suit filed by the appellant-plaintiff was partly decreed.

2. Brief facts of the case are that the respondent-defendant was

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appointed on the post of Inspector in the appellant-Punjab State Civil Supplies Corporation Limited (herein after referred to as 'Corporation'). The respondent-defendant was transferred from Samana to Nabha as Inspector/Incharge vide order dated 21.03.1988. The respondent-defendant joined his duty at Nabha on 04.04.1988 as Inspector/Incharge.

3. The appellant-Corporation purchased wheat and paddy. These purchases were made from grain market through Commission agents. The wheat so purchased was stored in godowns/plinths hired by the appellant-Corporation until the same was dispatched to the Food Corporation of India or disposed of as per the orders and directions of the Head Office, PUNSUP, Chandigarh.

4. While working at Nabha on the post of Inspector/Incharge, respondent-defendant was supposed to take care of the health of wheat at godowns hired by the appellant-Corporation at Nabha centre. The respondent-defendant was also responsible for dispatching the wheat to the Food Corporation of India as per the directions issued by the appellant-Corporation from time to time.

5. It was alleged that wrong information was given by the respondent-defendant regarding the excess in stock and replacement of gunny bags. An audit was conducted by the concerned audit party. The Auditor after a detailed audit concluded that there were grievous irregularities/negligence/losses/carelessness on the part of the respondent-defendant. As such, the appellant-corporation suffered a loss of Rs.75,868.67/- due to the negligence of respondent-defendant, thus, the



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appellant-Corporation was entitled to recover the said amount from the respondent-defendant.

6. A charge- sheet was issued, and a departmental enquiry was conducted. In the enquiry, the charges were proved. On the basis of the above said findings, appellant-Corporation directed the respondent-defendant to compensate the loss caused to the appellant-corporation due to his negligence.

7. As the respondent-defendant failed to compensate the loss, the appellant-Corporation filed a suit for recovery to the tune of Rs.75,868.67/- along with costs and interest @ 18% per annum.

8. Upon notice, the respondent-defendant duly filed written statement in the above said suit. The case of respondent-defendant was that he was not overall Incharge at Nabha Centre, in fact, as per the respondent-defendant, Field Officer, Sub Inspector, and other subordinate staff were jointly responsible for maintaining the health of the wheat in the godowns hired by the appellant-Corporation. It was the specific case of respondent-defendant that the godowns and plinths hired by appellant-Corporation were in a very poor condition.

9. The respondent-defendant had also denied submitting any wrong information to the appellant-Corporation regarding excess stock and replacement of gunny bags. It was also the contention of the respondent-defendant that the suit filed by appellant-Corporation was time barred.

10. From the pleadings of the parties, learned trial Court framed the following issues:-



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- “1. Whether plaintiff No.1 is a company regd. under the Indian Companies Act and can maintain the present suit in its name? OPP.*
- 2. Whether the suit has been filed by a duly authorized person?OPP.*
- 3. Whether the plaintiff gave less in excess of wheat as per the norms of plaintiff-corporation in the year 1988-89 to the extent of 70 Qtl. and 96 kg.? OPP*
- 4. If issue No.3 is proved, whether the plaintiff is entitled to recover Rs.5591.70 paise from the defendant for that loss give by him in excess of wheat?OPP.*
- 5. Whether the defendants replaced 5107/- excessive empty gunny bags of the value of Rs.44,839.45 paise and after adjusting the sum of Rs.1105.78 paise, the plaint company is entitled to recover Rs.43673. paise from him? OPP.*
- 6. Whether the plaintiff company is entitled interest @ 18% PA on the amount in dispute ? OPP.*
- 7. Whether the suit is within time ? OPP.*
- 7-A Whether the suit filed by the plaintiff has since become infructuous ? OPD (framed on 28.04.95).*
- 8. Whether the suit is not maintainable ? OPD.*
- 9. Relief.”*

11. Learned trial Court decided the suit partly in favour of the appellant-Corporation vide judgment and decree dated 13.10.1995. The appellant-Corporation was held entitled to recover an amount of Rs.24,632.50/- along with interest @ 12% per annum w.e.f. 21.06.1989 (when the liability was finally settled/determined) till the realization of the decretal amount.

12. A perusal of the judgment and decree passed by the learned trial Court would show that the learned trial Court recorded a finding that the respondent-defendant was responsible for the loss caused to the appellant-Corporation due to his misconduct and negligence. Learned trial Court took into consideration the physical verification report and documentary

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evidence, on the basis of which, it concluded that the respondent-defendant was liable for the loss caused to the appellant-Corporation. It was further held that the suit filed by the appellant-Corporation was within limitation, as the limitation starts from the time when the losses are detected, discovered or confirmed and not from the date of knowledge of losses.

13. Aggrieved against the judgment and decree dated 13.10.1995 passed by the learned trial Court, the respondent-defendant filed an appeal before the lower Appellate Court. The appellant-Corporation also filed a cross-objection against the said judgment and decree.

14. The learned lower Appellate Court vide judgment and decree dated 13.10.2001, allowed the appeal filed by the respondent-defendant and dismissed the cross-objection filed by the appellant-corporation by setting aside judgment and decree dated 13.10.1995 passed by learned trial Court.

15. A perusal of the judgment and decree dated 13.10.2001 passed by the learned lower Appellate Court would show that the above said appeal was allowed on the ground of limitation. It was held that since the appellant-Corporation came to know about the shortage of wheat on 09.01.1989 and about the replacement of excess gunny bags in the year 1988, as such, the suit filed on 16.07.1992 was barred by limitation.

16. Aggrieved against the judgment and decree dated 13.10.2001 passed by the learned lower Appellate Court and judgment and decree dated 13.10.1995 passed by learned trial Court, the appellant-Corporation has filed the present regular second appeal.

17. Learned counsel appearing on behalf of the appellant-

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Corporation submits that the learned lower Appellate Court has erred in giving a finding that the suit filed by the appellant-Corporation was barred by limitation. It is contended that the date of knowledge of shortage of wheat and replacement of excess bag would not be relevant for the purpose of limitation as the date of determination of loss is relevant for the purpose of limitation. It is the case of learned counsel appearing on behalf of appellant-Corporation that as the final liability was determined on 21.06.1989 as such, the suit filed by the appellant-Corporation was within limitation and on this ground alone, the present appeal is liable to be allowed and the judgment passed by the learned lower appellate Court is liable to be set aside. No other argument has been addressed.

18. Learned counsel appearing on behalf of the respondent submits that there is no infirmity or illegality in the judgment and decree dated 13.10.2001 passed by the learned lower Appellate Court in regard to the finding regarding limitation. It is contended that a perusal of the facts and evidence led by the parties would show that the shortage of wheat came to the knowledge of the appellant-Corporation on 09.01.1989 and about the replacement of excess bags in the year 1988. Since the suit was filed on 16.07.1992, which was beyond the period of 03 years from the date of knowledge as such, the suit filed by the appellant-Corporation was rightly dismissed by the lower Appellate Court being barred by limitation.

19. After hearing the learned counsel for the parties at some length and going through the records of the case, the only issue that arises for determination before this Court is as to whether the suit filed by the



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appellant-Corporation was within limitation.

20. A perusal of the facts of the case would show that the shortage of wheat came to the knowledge of the appellant-Corporation on 09.01.1989 and in regard to replacement of excess bags in the year 1988. Thereafter, the suit was filed on 16.07.1992.

21. Taking into consideration the above said facts, the cause of action for filing the suit first accrued in the year 1988 and then on 09.01.1989. It is not in dispute that the appellant-Corporation had acquired knowledge regarding the replacement of excess bags in the year 1988 and the shortage of wheat on 09.01.1989.

22. The right to sue first accrued from the date of knowledge. As such, the cause of action first accrued in the year 1988 in respect of replacement of excess bags, and then on 09.01.1989 in respect of the shortage of wheat. The period of limitation of three years would accordingly commence from the above said date, i.e., the date, when it came to the knowledge of the appellant-Corporation in regard to shortage of wheat and in regard to replacement of excess bags. A perusal of the above said facts would show that the suit was filed by the appellant-Corporation on 16.07.1992, after 03 years from the date when the cause of action first accrued as such, the suit filed by appellant-Corporation is liable to be dismissed being barred by limitation.

23. Reliance has been placed upon case titled as '**Nikhila Divyang Mehta and another Vs. Hitesh P. Sanghvi and others**', **2025 SCC Online SC 779, decided on 15.04.2025**, wherein, it was specifically held that suit



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filed beyond three years from the date of knowledge is barred by limitation.

The relevant extract is reproduced hereunder:-

“22. A bare reading of paragraph 3(o) of the plaint would reveal that the father of the plaintiff died on 21.10.2014 and that the plaintiff acquired knowledge of the Will and the Codicil left behind by him in the first week of November, 2014. Paragraph 4 of the plaint reveals that the cause of action for filing of the suit first arose on 04.02.2014, then on 20.09.2014 and finally on 21.10.2014 i.e., when the Will was executed, when the Codicil was executed and when the father of the plaintiff died respectively. Therefore, according to the plaintiff’s own admission, the cause of action for filing the suit commenced on 04.02.2014 and ended on 21.10.2014.

23. In view of the above, according to the plaintiff’s own averments the suit had to be brought within time of three years either from the commencement of the cause of action on 04.02.2014 or lastly on 21.10.2014 when his father died or at best when he acquired knowledge of the Will and the Codicil i.e., the first week of November, 2014.

24. There is no dispute to the fact that the limitation for filing of the suit falls under Article 58 of the Schedule to the Act wherein the limitation prescribed is three years. It may be pertinent to note that the limitation of three years is from the date when the cause of action first arose. So, according to the plaintiff’s case, the cause of action first arose on 04.02.2014 and, therefore, the limitation would end on 04.02.2017. However, even if the limitation is calculated from the date of knowledge of the Will and/or the Codicil, it would run from the first week of November, 2014 and would end in the first week of November, 2017. The suit admittedly was instituted on 21.11.2017; much beyond the first week of November, 2017 and as such is apparently barred by limitation, for which neither any defence is required to be looked into nor any evidence in support is needed to be adduced.

*25. Section 3 of the Act contemplates that every suit instituted after the period prescribed under the Act shall be dismissed even if limitation has not been set up as a defence. The aforesaid provision is of a mandatory nature and cannot be ignored by the courts even if not pleaded or argued by the defence. It is obligatory upon the “**court**” to dismiss the suit if it is, on the face of it, barred by limitation. The aforesaid provision has been enacted for public good and to give quietus to a remedy after lapse of a*



particular period, as a matter of public policy, though without extinguishing the right in certain cases. Therefore, once a limitation prescribed for instituting a cause of action expires and even if limitation is not set up as a defence, it obliges the court to dismiss the suit as barred by limitation.

26. In the present case, the plaintiff not only categorically states that he acquired knowledge of the Will and the Codicil in the first week of November, 2014 but also that the cause of action for the suit first arose on 04.02.2014 and lastly on 21.10.2014. The suit was filed on 21.11.2017. As such on the own averments of the plaintiff, the suit was instituted beyond limitation attracting Order VII Rule 11 (d) CPC.

27. The submission that limitation is a mixed question of law and fact and that it cannot be decided without allowing the party to lead evidence is of no substance. In the present case, we have earlier noted that the suit was admittedly instituted on 21.11.2017 whereas according to the plaint averments the cause of action first arose on 04.02.2014. Even assuming that the cause of action last arose in the first week of November, 2014, the suit ought to have been filed by 07.11.2017. The suit was filed on 21.11.2017. It was ex-facie barred by limitation for which, no evidence was required to be adduced by the parties. The above issue is purely an issue of fact and in the admitted facts as per the plaint, allegations stand concluded for which no evidence is needed.

28. The other contention that the plaintiff acquired knowledge of the Will and Codicil in the first week of November, 2014, but that was not a complete knowledge as probably he could read the same subsequently. In dealing with the submission, the appellate Court distinguished between “having knowledge” and “full knowledge” to hold that the suit is not barred by limitation as the limitation would reckon from the date of full knowledge. It is a complete fallacy to make any distinction between “knowledge” and “full knowledge”. First of all, the limitation has to run from the date when the cause of action first accrued and not any subsequent date for the cause of action. According to the plaintiff himself, the cause of action for the suit had arisen much earlier. Secondly, the plaintiff has not pleaded any date on which he acquired complete knowledge and that such argument is only an afterthought and appears to be a simple creation of the first appellate Court.”

24. In light of the facts of the case and evidence led by the parties,



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this Court does not find any infirmity or illegality in the judgment and decree dated 13.10.2001 passed by the learned lower Appellate Court.

- 25. Accordingly, the present appeal is dismissed.
- 26. Pending application(s), if any, also stand(s) disposed of accordingly.

(DEEPINDER SINGH NALWA)
JUDGE

15.09.2025
Rimpal

Whether speaking/reasoned	Yes
Whether Reportable :	No