



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-612 of 2021 (O&M)

Date of Order:08.01.2025

M/s Amar Chand and company

.Appellant

Versus

Dharambir and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Bhaskar Sorout, Advocate, for
Mr. Keshav Pratap Singh, Advocate
for the appellant.

ANIL KSHETARPAL, JUDGE (Oral)

1. This is the plaintiff's Regular Second Appeal against the judgment passed by the First Appellate Court which in turn has reversed the judgment passed by the trial court.

2. In order to comprehend the issue involved in the present case, the relevant facts, in brief, are required to be noticed

3. The plaintiff filed a suit for recovery of Rs.1,13,160/- plus interest and costs on account of supply of paddy to the defendants. It was claimed by the plaintiff that the defendants have not paid the price of 246 quintals of paddy which was supplied through two consignments of truck No.HR-38E-2288.

4. Defendant no.1, while contesting the suit submitted that the rice mill has been leased in favour of defendant no.2, who is occupier of the mill. Defendant no.2 denied the liability.

5. The trial court decreed the suit against defendant no.2. The First Appellate Court upon re-appreciation of the evidence, reversed the



judgment of the trial court on the following reasons:-

- (1) The plaintiff has not produced his account books. Hence, adverse inference is required to be drawn against it.
- (2) The documents produced by the plaintiff in support of his claim do not inspire confidence and the plaintiff had concealed material facts.
- (3) The plaintiff has produced copies of Form 'E' which is in the form of gate pass showing that 200 bags of paddy were dispatched through truck HR-38E-2288 on 14.12.2000 and 210 bags of paddy were sent through the same truck on the same date. However, the plaintiff has not produced evidence to prove that the aforesaid paddy was purchased and supplied to defendant no.2.
- (4) It has come on record that defendant paid Rs.50,000/- on 15.12.2000, Rs.40,000/- on 09.01.2001 and Rs.1,00,000/- on 19.01.2001 to the plaintiff. Since the plaintiff failed to produce account books, hence, there is no evidence to contradict these facts.

6. This Bench has heard the learned counsel representing the appellant at length and with his able assistance perused the paper book along with the requisitioned record.

7. The learned counsel representing the appellant submits that the First Appellate Court has erred in ignoring Ex.PW1/A to PW1/E. He further submits that PW3-Thakur Dass has stated that as per certified copy Ex.PW3/A, LL Forms were deposited with them showing receipt of paddy



by Shri Ram Rice Mills.

8. This court has considered the submissions of the learned counsel representing the appellant.

9. The documents Ex.PW1/A to PW1/D have been thoroughly examined and discussed in detail in para 16 of the First Appellate Court's judgment.

10. Moreover, statement of Sh. Thakur Dass, Mandi Supervisor, PW3 is not sufficient to prove that the amount is recoverable from the defendants particularly when the plaintiff has not produced his accounts books.

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

12. Dismissed.

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

(ANIL KSHETARPAL)
JUDGE

January 08, 2025
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No