



**SAO-61-2017 (O&M)
and other connected case**

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

1.SAO-61-2017 (O&M)

Punjab State Civil Supplies Corporation Limited through its Managing
Director and others

..Appellants

Versus

R.S.Kang

..Respondent

2.SAO-62-2017 (O&M)

Punjab State Civil Supplies Corporation Limited through its Managing
Director and others

..Appellants

Versus

Abhey Kumar Chawla and others

..Respondents

Reserved on :16.01.2025

Date of decision: 10.03.2025

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Aman Sharma, Advocate
Ms. Sital Sharma, Advocate
Mr. Chirag Suri, Advocate for the appellants

Mr. Rahul Arora, Advocate for the respondents

ANIL KSHETARPAL, J. (Oral)

1. The plaintiffs assail the correctness of the First Appellate Court's order setting aside the trial court's judgment and decree only on the question of lack of territorial jurisdiction while returning the plaint to be presented before the court of competent jurisdiction is challenged.

2. In order to comprehend the issues involved in the present case, some relevant facts, in brief, are required to be noticed from the lead case i.e SAO-61-2017.



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3. The Punjab State Civil Supplies Corporation Limited is an instrumentality of the State which has been created for the purpose of purchasing paddy and to get it dehusked for supply of rice to the Central Pool. The respondents are employees/former employees of the plaintiff. The plaintiff filed a suit for recovery of Rs.66,01,199/- claiming loss to the Corporation on account of negligence of its former employees. A suit was filed in the court of Civil Judge, Senior Division, Faridkot where the office of the District Manager of the Corporation is located at the relevant time. The defendants were posted at Muktsar. While filing the written statement, the defendants objected to the jurisdiction of the court, however, they never requested the court to frame a distinct issue. The trial court decreed the suit. During the pendency of the first appeal, objection to the territorial jurisdiction of the Civil Judge Senior Division, Faridkot was taken on the ground that the cause of action accrued within the territorial jurisdiction of Muktsar and not Faridkot. The First Appellate Court has set aside judgment and decree passed by the trial court. These two appeals have been filed against the aforesaid order passed by the First Appellate Court.

4. Heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

5. The appellants' counsel submits that before the trial court the defendants never objected to the territorial jurisdiction and they have not shown any prejudice. It has been submitted that the defendants were represented by separate counsels and after the trial of the suit spanning over a period of 7½ years, the suits were decreed.



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6. Per contra, learned counsel representing the respondent submits that the objection to the territorial jurisdiction was taken in the written statement and the court at Faridkot has no jurisdiction to try the suit.

7. On a Court question, the learned counsel representing the respondent failed to show any prejudice caused to the defendants. 50 kms is the distance between Faridkot and Muktsar. Excellent transport facilities are available. The office of the District Manager of the Corporation is located at Faridkot.

8. The First Appellate Court without prejudice having been pleaded or established by the defendant set aside the judgment and decree of the court after having sought report from the trial court by framing an additional issue, which was answered by the trial court against the appellant. Only that basis, the judgment and decree is passed by the court after prolonged trial was set aside.

9. Learned counsel representing the respondent further submits that the appellant-Corporation never assailed the correctness of the report submitted by the trial court while deciding the additional issue. On a Court question as to how the finding of an additional issue could be challenged, particularly when the suit was decreed in favour of the appellant-Corporation. He submits that there was sufficient time period to challenge the order passed by the trial court.

10. This Court has considered the submissions made by the learned counsel representing the parties.

11. It is evident that when the case was finally heard by the trial court, the learned counsel representing the defendants did not press this



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aspect. Section 21 of the Code of Civil Procedure, 1908 (hereinafter referred to as 'CPC') provides that no objection as to the place of suing shall be allowed by any appellate or revisional court unless such objection is taken in the first instance at the earliest possible opportunity. On a careful reading of Section 21(1) CPC, it is evident that the objection as to the place of suing is required to be taken at the earliest possible opportunity and the defendants have to show prejudice and prove that there has been a consequent failure of justice once a decree has been passed by the court of first instance. In this case, learned counsel representing the defendants failed to show consequent failure of justice or prejudice caused to the defendants. In **Smt. Dhiro vs. Sadhu Singh 2007 (1) RCR (Civil) 821**, the court held that unless the prejudice is shown on the basis of incorrect place of suing, the judgment and decree by the appellate court cannot be set aside. Similar view was taken in **Ramesh Chander vs. Bhushan Lal 1984 (2) RCR (Rent) 50**.

12. Consequently, the judgment passed by the First Appellate Court in both the appeals are set aside while restoring the appeals to its original number. The parties through their learned counsels are directed to appear before the First Appellate Court on 04.04.2025.

13. Both the appeals stand allowed.

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

**(ANIL KSHETARPAL)
JUDGE**

10.03.2025

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Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No