

(2007) 07 P&H CK 0068

High Court Of Punjab And Haryana At Chandigarh

Case No: None

Puran Chand

APPELLANT

Vs

The Market Committee

RESPONDENT

Date of Decision: July 24, 2007

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - Section 100

Citation: (2007) 4 PLR 643 : (2007) 4 RCR(Civil) 86

Hon'ble Judges: Satish Kumar Mittal, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

Satish Kumar Mittal, J.

This is a plaintiffs Regular Second Appeal. His suit for declaration to the effect that demand of the defendant Market Committee to recover an amount of Rs. 40,500/- from the plaintiff is illegal, unlawful and unjustified, has been dismissed by both the Courts below.

2. Plaintiff filed the aforesaid suit on the averments that he, being the highest bidder, had taken a contract from the defendant Committee on 23.3.1999, for removal of Chhilka and other waste of agriculture products from the New Anaj Mandi, Taraori, District Karnal, for an amount of Rs. 81,000/- for the year 1999-2000. Out of the said amount, the plaintiff paid an amount of Rs. 40,500/- at the time of entering into the said agreement. Subsequently, on 6.10.1999, the defendant Committee issued instructions to the Commission Agents of New Anaj Mandi, Taraori for not cleaning the agriculture products with the help of electric/hand fans. It is the case of the plaintiff that due to the non-use of the electric fan, no waste or Chhilka came out from the agriculture produce, and consequently he suffered the loss, therefore, the defendant Committee is not entitled to recover the remaining amount.

3. The defendant Committee contested the suiHnter-alia denying the allegation of loss suffered by the plaintiff by issuance of the said instructions. It is stated that the tender was given to the plaintiff for removal/discharge of the Chhilka and other waste material from the market committee yard. He was not required to clean the agriculture produce of the farmers, which was to be cleaned by the farmers themselves at their own expenses. It is stated that those instructions were issued to prevent the air pollution being created by use of those electric fans. It is the case of the defendant Committee that by not using the electric fans for cleaning the agriculture produce, no loss was caused to the plaintiff, as he was only required to remove the Chhilka and other waste from the market yard.

4. After taking into consideration the evidence led by the parties, both the courts below have dismissed suit of the plaintiff, while coming to the conclusion that since the plaintiff had deposited half the amount to the tune of Rs. 40,500/- on the very day of contract, the defendant Committee is within its right to recover the remaining amount of the contract.

5. Learned Counsel for the appellant-plaintiff submits that while giving contract to the plaintiff for removal of Chhilka and other waste of agriculture produce from the market yard, no condition was imposed by the defendant Committee that the plaintiff will not clean the agriculture produce with the help of electric fans and since the defendant has imposed the said condition vide instructions, Ex. D3, it has violated the terms of the agreement, which has resulted into loss to the plaintiff. Therefore, the defendant Committee is not entitled to recover the balance amount of the contract.

6. I do not find any merit in the contention raised by learned Counsel for the appellant. The contract was given to the appellant-plaintiff for removal of the Chhilka and other waste driven out from the agriculture produce. They were not required to clean the agriculture produce brought by the farmers in the market yard. That was not their job. Their job was only to remove the waste from the market yard to keep the market yard clean. The plaintiff has also not placed on record the copy of the agreement entered into between the parties showing that under the said agreement, they were authorized to clean the agriculture produce brought by the farmers by use of electric fans. It has also been found by the courts below that instructions Ex. D3 were issued by the defendant Committee with intention to prevent the air pollution by use of those electric fans by the farmers or Commission Agents for cleaning the agriculture produce brought by the farmers in the market. In my opinion, both the courts below have rightly dismissed the suit of the plaintiff after recording the aforesaid findings of fact, which do not require any interference by this Court, in view of the settled law that this Court u/s 100 of the CPC cannot re-appreciate the evidence in Order to reach the conclusion other than the one recorded by the courts below, merely because another view is possible. In this regard, reference can be made to [Kulwant Kaur and Others Vs. Gurdial Singh](#)

Mann (dead) by Lrs. and Others etc., ; Janki Narayan Bhoir Vs. Narayan Namdeo Kadam, , Bondar Singh and Others Vs. Nihal Singh and Others, and Kanhaiyalal and Others Vs. Anupkumar and Others, .

7. No substantial question of law has either been raised or is involved in this appeal.

Dismissed.