
(2003) 02 P&H CK 0179

In the Punjab And Haryana At Chandigarh

Case No : Regular Second Appeal No. 1269 of 1980

Market Committee

APPELLANT

Vs

Kataria Traders

RESPONDENT

Date of Decision : 07-02-2003

Acts Referred:

Punjab Agricultural Produce Markets Act, 1961 — Section 31

Citation : (2003) 134 PLR 278 : (2003) 2 RCR(Civil) 267

Hon'ble Judges : R.L. Anand, J

Bench : Single Bench

Advocate : None, for the Appellant; None, for the Respondent

Final Decision : Allowed

Judgement

R.L. Anand, J.—By this judgment I dispose of two Regular Second Appeals No. 1269 and 1270 of 1980 as, in my opinion, both the appeals can be disposed of by a common judgment.

2. The point involved in both the appeals is similar as to whether the plaintiff-respondent has the locus standi to file the present suit. For the sake of facts, I am taking from R.S.A. No. 1269 of 1980 titled Market Committee, Jagraon v. Kataria Traders.

3. M/S. Kataria Traders, which is a partnership firm and carries on business in Jagraon Notified Area Committee, is a licensee of the defendant and it was to pay a market fee on the foodgrains as prescribed by the defendant. The fee prescribed by the defendant was Rs. 1.50 per hundred rupees on the purchase of agricultural produce within the market area and it was increased to Rs. 2.25 per hundred rupees w.e.f. 30.4.1974 vide amendment Act No. 13 of 1974.

4. The case set up by the plaintiff was that this enhancement in the market fee was unconstitutional and it did not fall within the ambit of the act and that the amendment Act and notification was struck down by the High Court in C.W.P. No. 3274 of 1974 and Civil Misc. No. 9010 of 1974. The excess amount paid by the

plaintiff firm due to the illegal increase of Rs. 0.75 per hundred rupees during the period from 1.5.1974 to 8.11.1974 comes to Rs. 11,700/0 and on the said amount the plaintiff firm is entitled to get interest amounting to Rs. 4,200/- at the rate of 13 per cent per annum. The entire amount paid by the plaintiff firm as market fee during the period was Rs. 34,941.90 whereas Rs. 23,241.90 could be legally charged.

5. The suit was contested by the Market Committee on various grounds including the one that the plaintiff firm has no locus standi to file the suit.

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

"1. Whether the plaintiff has the locus-standi to file the present suit? OPP

2. Whether the plaintiff firm is a registered partnership firm? If so, whether plaintiff is its registered partner? OPP

3. If issue No. 2 is not proved, whether the registration was necessary for filing the present suit? OPD

4. Whether the suit is beyond limitation? OPD

5. Whether the plaintiff is estopped to bring the present suit as alleged by the defendant? OPD

6. To what amount, if any, the plaintiff is entitled including interest, if any? OPP

7. Whether any notice was necessary to be served upon the defendant? If so, its effect? OPD

8. Whether the suit is bad for non-joinder of necessary parties? OPD

9. What is the effect of Act No. 34 of 1976 on the fresh suit? OPD

10. Relief."

The parties led evidence in support of their respective cases and on conclusion of the proceedings the suit of the plaintiff was decreed.

7. Aggrieved by the judgment and decree of the trial Court dated 12.12.1978 the defendant Committee filed an appeal before the Court of Additional District Judge, Ludhiana, which decided both the appeals by a common judgment and the appeals were dismissed vide judgment and decree dated 16.10.1979.

8. Still not satisfied with the decisions of the Courts below, the present appeals by the Market Committee.

9. Nobody has appeared on behalf of the parties before me as a result of which I was left with no other option but to decide the appeals on going through the grounds of appeals as well as the impugned judgments.

10. In my opinion, both the judgments of the Court below are liable to be set

aside by holding that the plaintiff firm has no locus standi to file the suit. The point involved in the appeals came up for consideration in several judgments before this Court and it was held by relying upon the maxim of "undue enrichment" that the plaintiff cannot file the suit as he had already recovered excess fee from the consumers. Reliance can be placed upon Market Committee, Raikot v. Perma Nand Sat Narain 2000(1) R.C.R. 256, The Market Committee Vs. Amar Nath Surinder Mohan, , Market Committee, Rampura Phul v. Nathu Ram Om Parkash (2001)127 P.L.R. 741 and the judgments passed in R.S.A. Nos. 1957 of 1980 titled The Market Committee, Mandi Mullanpur v. Ram Sarup and Anr., decided on 10.8.2001:2001(4) R.C.R. 583 and 2028 of 1980 titled The Market Committee, Mani Mullanpur v. Ram Kumar Tilak Ram and Anr., also decided on 10.8.2001 : 2001(4) R.C.R. 481 (P&H) The board reason for allowing these appeals is that the plaintiff firm had received the excess fee from the consumers because the plaintiff was a commission agent. The food grains was to be sold to the flour mill owners or Chakkiwalas or to the consumers. They are the effected parties. The plaintiff cannot be allowed to become rich in the garb of the present suit. 11. In this view of the matter, both the appeals are hereby allowed, The judgments and decrees of the Courts below are hereby set aside and the suits of the plaintiffs in both the appeals are hereby dismissed with no order as to costs.