
(2001) 08 P&H CK 0184

In the Punjab And Haryana At Chandigarh

Case No : Regular Second Appeal No. 1957 of 1980

Market Committee, Mandi Mullanpur

APPELLANT

Vs

Ram Sarup Rajinder Kumar

RESPONDENT

Date of Decision : 10-08-2001

Acts Referred:

Punjab Agricultural Produce Markets Act, 1961 — Section 33(3)

Citation : (2001) 4 RCR(Civil) 583

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

Bench : Single Bench

Advocate : K.S. Gill, for the Appellant;

Final Decision : Allowed

Judgement

R.L. Anand, J.—The Market Committee, Mandi Mullanpur has filed the present regular second appeal and it has been directed against the judgment and decree dated 20th February, 1980 passed by the Court of Additional District Judge, Ludhiana who dismissed the appeal of the Market Committee by affirming the judgment and decree dated 4.8.1979 passed by the trial Court which granted the money decree for a sum of Rs. 795.53 with proportionate costs.

2. The brief facts of the case are that the plaintiff-firm through its sole proprietor, instituted a suit for the recovery of Rs. 1213.08 (Rs. 759.53 as principal and Rs. 417.55 as interest) on the allegations that the plaintiff-firm carries on its business of commission agents and the Market Committee, Multanpur arbitrarily increased the market fee from Rs. 1.50 to Rs. 2.25 on purchase and sale of agricultural produce w.e.f. 30.4.1974 and the plaintiff had deposited the market fee from 30.4.1974 to 9.11.1974 at the enhanced rate under protest. It has been averred that the Punjab and Haryana High Court in a decision dated 8.11.1974 had struck down the amendment in the Act enhancing the levy of market fee. It is averred that the defendant even failed to pay the admitted amount to the plaintiff-firm, which necessitated the present suit.

3. The suit was contested by the defendant-appellant. It was pleaded that since the plaintiff is a commission agent of the sale and purchase of agricultural produce on behalf of other person and get commission, it has not paid any amount from its funds and the market committee collects the market fee from the producers, which sells and purchases the produce in the market area. In these circumstances, the plaintiff had no locus standi to file the suit. It is also pleaded by the defendants that the plaintiff is estopped from filing any suit because it had voluntarily deposited the market fee and that the suit was also time barred; no valid notice as required under the Punjab Agricultural Produce Market Act, 1961 was served; that the plaintiff has no cause of action; that the plaintiff is not entitled to claim any interest and the suit is also barred by the principles of res judicata.

4. From the above pleadings of the parties, the trial Court framed the following issues :

1. Whether the defendant No. 1 has accepted the amount vide letter dated 23.6.1975 ? OPP.

2. Whether the defendants have arbitrarily increased the market fee ? OPP.

3. Whether proper notice was served on the defendants? OPP.

4. Whether the suit of the plaintiff is within limitation ? OPP.

5. Whether the plaintiff firm is registered under the partnership of firms Act ? OPP.

6. Whether the plaintiff is entitled to recover the amount claimed in the plaint with interest ? If so, to what extent ? OPP

7. Whether the suit of the plaintiff is bad for non-joinder of the parties ? OPD

8. Whether the plaintiff firm has no locus standi to file the suit ? OPD

9. Whether the plaintiff is estopped from filing the present suit ? OPD

10. Whether the suit is barred u/s 33(3) of the Punjab Produce Agriculture Market Act (General Rules) 1962 ? OPD

11. Whether the suit is barred by res judicata ? OPD.

12. Relief.

5. The parties were given opportunities to lead their evidence and on the conclusion of the proceedings the suit of the plaintiff was partly decreed. Aggrieved by the judgment and decree, the defendant filed the first appeal before the Additional District Judge who vide impugned judgment and decree dated 20.2.1980 dismissed the appeal. Not satisfied with the judgment and decree of the courts below, the present regular second appeal has been filed.

6. I have heard Shri K.S. Gill on behalf of the appellant and with his assistance,

have gone through the record of the case. No assistance has been provided from the side of the respondents.

7. Learned counsel for the appellant has invited my attention to the two judgments reported as Market Committee, Raikot v. Messrs Ram Saran Dass Madho Ram, 2000(1) R.C.R. 253 and Market Committee, Raikot v. Messrs Perma Nand Sat Narain, 2000(1) R.C.R. 256 and it was argued by the learned counsel that the plaintiff-firm had no cause of action to file the suit and it cannot be allowed to become doubly rich because the plaintiff-firm was a Pacca Arhtia. It only procures the produce and then sells to the shopkeepers who further sells the commodity to the consumers. In these circumstances, the duty realised by the Market Committee has been paid or borne by the consumers who alone has the locus standi to file the suit. There is merit in the contention raised by the learned counsel for the appellant. In the cited case the facts were similar and this court held that the ultimate sufferers were the consumers and they had the cause of action, The Pacca Arhtia has already sold the produce to (he shopkeepers who, in turn, has sold to the consumers and, therefore, the Pacca Arhtia cannot be allowed to become doubly rich. Support can also be taken from the judgment dated 14th July, 1995 passed by the Hon"ble High Court in R.S.A.No. 1708 of 1979, in which it was held that the pacca arhtia has no locus standi to file the suit because the burden of the market committee (fee ?) had passed to the purchasers and the consumers.

8. In this view of the matter, this appeal is allowed, the judgments and decrees of the courts below are set aside and the suit of the plaintiff- respondent is dismissed with no order as to costs.

9. Appeal allowed.