
(1984) 12 DEL CK 0046

In the Delhi High Court

Case No : Civil Revision No. 66 of 1978

Mohan Lal

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 06-12-1984

Acts Referred:

Citation : AIR 1985 Delhi 209

Hon'ble Judges : D.R. Khanna, J

Bench : Single Bench

Advocate : M.L. Bhargava, for the Appellant;

Judgement

D.R. Khanna, J.—The consignment of 75 bags of sugar was booked at Baitalpur for "carriage by railway to Delhi under railway receipt No. 126845 dt. 1-12-1972. The plaintiff was the consignee of the goods, and the consignment was at railway risk. However, when the goods subsequently reached Delhi, it was found that 132 kgs. of sugar was short in five bags. A shortage certificate was obtained to this effect, though it was mentioned that it was without prejudice.

2. The learned trial court dismissed the suit on the ground that the plaintiff had failed to lead evidence of any witness who was present at the time of loading of the goods in the wagon, and since there was a note on the railway receipt that loading had been done by the factory staff of the consignor it could not be said that the goods actually consigned weighed as much as mentioned in the plaint.

3. I find that in the judgment at one stage, the trial court observed that none of the witnesses of the plaintiff had stated that the wagon was loaded in the presence of the railway staff and at another that the railway receipt, Ex. P. 1 had writing about the loading, sealing, riveting etc. by the railway staff at the railway siding. There is apparently contradiction in these observations. Be that as it may, in case the railway booked certain goods for transit, and issued a railway receipt mentioning the extent of the goods so booked, it is for the railway to ensure that the goods were delivered back at the place of destination. They cannot take

shelter under their own negligence, if any, in case railway receipts are recklessly issued, giving description and extent of goods without checking and ensuring that they are accordingly so. Of course, it is another matter that the goods are brought in packed condition, and the railways have no opportunity to open the packages and verify the contents. In that case, it would appear that the railways may be entitled to challenge the contents of the goods actually brought in sealed packages. Now in the present case that the bags contained sugar, has not been disputed by the railway in the written statement. Their weight was mentioned in the railway receipt. The shortage certificate Ex. P. 8 issued at Delhi, brought out the shortage. Its perusal shows that there had taken place transshipment of goods during transit at an intermediary station. That could explain how the shortage occurred. The significant fact is that no witness was examined by the railways in the present case.

4. In the totality of these circumstances, I must hold that the learned trial Court's approach in the entire matter has been misdirected. The plaintiff was entitled to relief for the shortage in consignment, and the witnesses who appeared, have mentioned the value of the same at over Rs. 500/-. The plaintiff was entitled to this amount. A decree is Accordingly passed for this amount in favour of the plaintiff and against the defendant with costs.