

(1992) 01 DEL CK 0043
In the Delhi High Court

Sajan Das Kishan Chand

APPELLANT

Vs

Union of India (UOI)

RESPONDENT

Date of Decision : 09-01-1992

Acts Referred:

Citation : (1992) 1 ACC 630

Hon'ble Judges : S.B. Wad, J

Bench : Single Bench

Judgement

S.B. Wad, J.—This plaintiff's second appeal is directed against the judgment and order of the Additional District Judge in RCA No. 7/72 dismissing the appeal of the plaintiff. The trial court had held that the plaintiff had no locus standi to file the suit and while dismissing the appeal the learned Additional District Judge has upheld his contention. The learned Additional District Judge found all other issues in favor of the plaintiff except issue No.6 which was an issue regarding the locus standi. The plaintiff had tiled the suit for Rs. 2541/- against the defendant for loss of mangoes due to the negligence of the defendant as a carrier. The learned Additional District Judge held that the pleadings of the plaintiff were defective in that it had not asserted in the plaint that it was a commission agent of the consignor but merely stated that it was a consignee of the goods on question. The learned A.D.J. Therefore, refused to look into the evidence in regard to the commission agency for want of pleadings. The learned A.D.J. further held that the property in goods had not passed to the consignee and Therefore, he had no locus standi to file the suit

2. The question regarding the locus of a consignee as a commission agent was a matter of controversy for some time. The earlier strict view of law was that unless a person has a substantive right in the property he has no standing for filing a suit. Gradually it gave way to more liberal interpretation of the concept through the various decisions of the Supreme Court. The Supreme Court expounded the concept of locus standi to all cases where the person has some interest and is not merely a busy body or mere intermeddler. A consignee who is

also a commission agent of the consignor certainly has interest sufficient enough for him to enter the door soft the court. In Lal Chand Madhav Das Vs. Union of India and Others, a Division Bench of this Court has considered several decisions of the High Courts and the Supreme Court and has come to the conclusion that a consignee commission agent has sufficient interest to file the suit. It has also cited with approval the statement of law by a learned Single Judge in Union of India Vs. B. Prahlad and Co., namely "Even though the property in goods did not pass in the consignee, he is the proper person to sue as a consignor delivering the goods to the carrier as agent for the consignee". As per the view of the Supreme Court in The Morvi Mercantile Bank Ltd. and Another Vs. Union of India (UOI), and Union of India (UOI) Vs. West Punjab Factories Ltd., , railway receipt is a symbol of goods itself and if a pledgee can be held to be entitled to sue the railway the consignee for consideration can certainly sue it.

3. The objection of the trial court and of the learned A.D.J. that the pleadings were inadequate in the matter and Therefore, the evidence cannot be looked into is hyper-technical. When the evidence was led regarding the commission agency of the consignee without any objection from the defendant such evidence naturally has to be looked into, remembering that a suit is a very initial stage for the parties to come out with the truthful case. I hold that it is established on evidence that the plaintiff was not only the consignee but was a commission agent also. Following various decisions and particularly the extended concept of locus standi I have no hesitation in holding that the consignee commission agent has the locus standi to file the suit. I hold accordingly. The impugned judgments of the lower court and of the learned A.D.J. are set aside. The matter is remanded to the trial court for disposal of the suit on merits according to law.