
(1999) 07 P&H CK 0158

In the Punjab And Haryana At Chandigarh

Case No : Regular Second Appeal No. 2436 of 1980

The Market Committee

APPELLANT

Vs

Des Raj Mohan Lal

RESPONDENT

Date of Decision : 20-07-1999

Acts Referred:

Punjab Agricultural Produce Markets Act, 1961 — Section 23A(2)

Citation : (2000) 124 PLR 223

Hon'ble Judges : Harjit Singh Bedi, J

Bench : Single Bench

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

Final Decision : Allowed

Judgement

Harjit Singh Bedi, J.—The facts leading to the disposal of the present appeal do not find mention in the judgment under appeal but have been given by the learned counsel for the appellant in Court.

2. The state of Punjab amended the Punjab Agricultural Produce Markets Act, 1961 (hereinafter called the Act) increasing the market fee leviable on the sale and purchase of agricultural produce from Rs. 1.50 to Rs. 2.25 percent with effect from 30th April, 1974. This enhancement was challenged in this Court in C.W.P. No. 3274 of 1974 and in its judgment of 8.11.1974, the Court struck down the enhancement. The respondent-firm had, in the meanwhile, paid a sum of Rs. 8843.32 as market fee from 30.4.1974 to 6.11.1974 and because of the increase in the market fee for the short interregum before it was struck down an excess amount of Rs. 8843.32 was paid. The respondent accordingly filed a suit for the recovery of the aforesaid amount plus Rs. 3183/- as interest. The trial Court decreed the suit and the first appeal filed by the Market Committee was also dismissed. Hence the present second appeal at the instance of the defendant-Market Committee.

3. Mr. Hemant Gupta, the learned counsel appearing for the appellant-Market

Committee, has argued that there had been a substantial change in the circumstances thereafter inasmuch as that-after the increase in the market fee had been struck down by this Court, the State of Punjab had yet again amended the Act and had inserted Section 23-A therein which, inter alia, provided that the Market Committee would be entitled to retain the fee levied in certain circumstances and in sub-section (2) thereof it was clearly provided that no suit or other proceedings could be instituted, maintained or continued in any Court for the refund of the whole or any part of the fee retained by a Committee and that no Court could enforce any decree or order directing the refund of the whole or any part of such fee. It has been pointed out that this provision had also been challenged in this Court and a Division Bench judgment in *Walaiti Ram Mahavir Parshad v. State of Punjab and Ors.*(1984)86 P.L.R. 625 had repelled the challenge. It has accordingly been argued by Mr. Gupta that in view of the clear provisions of Section 23-A(2) no suit was competent against the Market Committee and as such the appeal must succeed. This argument appears to be correct.

4. This appeal is accordingly allowed, the judgments of the two Courts below are set aside and the suit filed by the plaintiff-respondent is dismissed with no order as to cost.