

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****120****RSA-3704-2023 (O&M)****Date of decision: 13.08.2025****Sandeep Jaglan****...Appellant(s)****Vs.****M/s. Malik Petroleum****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Sunil Bhardwaj, Advocate for the appellant.

NIDHI GUPTA, J.

Present appeal has been filed by the defendant against the concurrent judgments and decrees of the learned Courts below; whereby the suit filed by the respondent/plaintiff for recovery of Rs.4,94,192.77P, has been decreed by both the Courts below.

2. Memo of appearance filed on behalf of the appellant in Court today is taken on record. Learned counsel for the appellant undertakes to file Vakalatnama in Registry within one week from today.

3. Brief facts of the case are that the plaintiff-Firm/respondent herein, is an authorised dealer of Indian Oil Corporation Ltd. and running a petrol pump for sale of petrol and diesel in retail on cash and credit basis. It was the pleaded case of the plaintiff that defendant/appellant had purchased diesel for his vehicles/Trucks during the financial year 2016-2017 and 2017-2018 through his respective drivers. The defendant used to repay the outstanding amount from time to time. The defendant had



agreed to pay interest @ 18% per annum for payments made 15 days after the due date. The defendant had started purchasing diesel from the plaintiff w.e.f. 25.08.2016 and total amount of Rs.6,89,092.77P was due against him. After August 2017, defendant had stopped purchasing diesel from the plaintiff. During this period, defendant had paid an amount of Rs.1,94,900/- through cash and bank transfer. As on 01.04.2018, amount of Rs.4,94,192.77 P was due against the defendant. Plaintiff had requested defendant to clear the dues, and had even served legal notice dated 13.03.2019 to the defendant however, to no avail. As such, plaintiff had instituted the instant suit for recovery on 28.05.2019.

4. Vide judgment and decree dated 17.01.2023, learned Civil Judge (Junior Division), Jind had decreed the suit of the plaintiff for the said amount of Rs.4,94,192.77 P along with interest @ 6% per annum. The appeal filed by the defendant was dismissed by the learned Additional District Judge, Jind vide judgment and decree dated 19.09.2023. Hence, the present Second Appeal by the defendant.

5. It is *inter alia* submitted by learned counsel for the appellant/defendant that the suit of the plaintiff could not have been decreed as the Ld. Courts below had wrongly relied upon the ledger statement/ Ex.P25 presented by respondent vide which it was alleged that suit amount is pending towards the appellant. It is contended that, however, the learned Courts below did not consider that ledger account are used to prepare on the pleasure of party who is presented or holding the ledger account. Also, Ld. Court did not appreciate the statement given



by PW-2 i.e. Vijay Garg Accountant who deposed in his statement that the ledger was prepared by him on the direction of Ishwar Singh i.e. respondent and he prepared Ex.P-22 to Ex.P-25. Thus, reliance made upon ledger account of respondent is not tenable or justifiable in the eyes of law.

6. Learned counsel for the appellant also submits that ownership of the defendant over the vehicles/trucks was not proven. The Ld. Appellate Court has also wrongly relied upon and held that partly admission can be considered as full admission and thus, admission of the appellant while deposing that he was having transaction with the respondent was wrongly considered and recovery was taken as proved against the appellant.

7. Learned counsel for the appellant further submits that learned Courts also did not consider contention of the appellant that since the appellant was not the owner of vehicle Nos.HR-56A-1921, HR-46C-3127 and HR-61B-4166 during the financial year 2016, 2017 and 2018, thus, purchase of fuel for the above said vehicles cannot be proved against the appellant. Appellant also relied upon the statement given by RTO Inspector and the RC Clerk i.e. Sandeep Kumar who also proved the ownership of vehicles were not in the name of appellant. Moreover, the receipts Ex.P4 to Ex.P21 which were produced by the plaintiff, does not bear the signature of appellant and also does not bear any authority letter issued by appellant to any of his driver. Rather no relationship was proved vide statement deposed by the witnesses or vide any other documents



which can prove that the evidence relied upon by plaintiff is related to appellant or his drivers. Thus, there is no relationship of master-agent in the present case and no liability can be proved against the appellant in view of the statement made by witnesses or bills produced by the plaintiff/respondent.

8. It is accordingly prayed that the present Second Appeal be allowed; and the impugned judgments and decrees of the learned Courts below be set aside.

9. No other argument is raised on behalf of the appellant. I have heard learned counsel and perused the case file in great detail. I find no merit in the submissions made on behalf of the appellant.

10. First and foremost, present Second appeal is liable to be dismissed on the short ground that this Court in Regular Second Appeal has limited jurisdiction to interfere in the concurrent findings of facts returned by the learned Courts below. The Hon'ble Supreme Court in ***M/s. Shivali Enterprises v. Godawari (Deceased) (SC): Law Finder Doc Id # 2034559*** has held that no matter howsoever incorrect or grossly erroneous the concurrent findings of the learned courts below may be, this Court in the Second Appeal can interfere in the concurrent findings only where there is an error in law or procedure. In the present case, no such error in law and procedure has been made out by learned counsel for the appellant.

11. Be that as it may, even upon detailed examination of the findings of fact, returned by the learned court below, this Court has found



no error in the same. It has firstly been contended by learned counsel for the appellant that the ledger/account books produced by the plaintiff were not reliable as they were prepared by the plaintiff. In this regard, learned counsel has relied upon testimony of PW2 Vijay Garg, Accountant with the plaintiff-Firm. However, the said argument of the appellant is flawed as, even if the ledger books (Ex.P22 to Ex.P25) are ignored for the sake of argument, the outstanding amount due against the appellant is proved from the receipts Ex.P4 to Ex.P21 which reveal that from 25.08.2016 to 31.08.2017, oil was purchased by the defendant on multiple occasions through his drivers. The ledger statements (Ex.P22 to Ex.P25) only corroborate the amount reflected in receipts. The said facts are further fortified from the Income Tax Returns (Ex.P27 to Ex.P33) produced by the plaintiff for the financial years 2017-2018 to 2020-2021, wherein the amount of Rs.4,94,192.77P was shown outstanding against the defendant. Furthermore, the ledger account statements (Ex.P22 to Ex.P25) has been proven from the certificate under Section 65 of the Evidence Act (Ex.P26) produced by the plaintiff. As such, argument of the appellant that ledger books could not have been relied upon, is not tenable.

12. The next argument of the defendant is that oil was purchased from the plaintiff by unauthorized persons and that the vehicles for which the said oil was purchased did not belong to the defendant. There is no merit even in the said argument as, defendant himself in his testimony as DW2, has admitted that on few occasions he had purchased oil from the



plaintiff on credit basis. It is trite law that admission is the best evidence. Moreover, receipts (Ex.P4 to Ex.P21) were duly signed by the drivers of their respective vehicles. The said receipts duly reflect the vehicle nos. As noted above, these receipts are corroborated from the copy of ledger produced on record as (Ex.P22 to Ex.P25). These ledger accounts were proved from the evidence of PW2 Vijay Garg, Accountant and PW1 Ishwar Singh. Thus, the oral testimonies of PW1 Ishwar Singh and PW2 Vijay Garg are supported by substantial documentary evidence. Alongwith Income Tax Returns, the plaintiff had also produced list of sundry debtors. In the said list also, name of the defendant is reflected. It is to be appreciated that receipts/ledgers/account books/income tax returns, and such like documents are prepared in routine of business, and are therefore reliable and cannot be concocted.

13. Besides the above facts, the relevant findings of the learned lower appellate Court are contained in para 21 and 22 of the judgment dated 19.09.2023 which are reproduced herein below: -

“21. Now the defendant/appellant is alleging that the evidence adduced by the plaintiff/respondent cannot be relied upon. It is alleged by him that receipts from Ex.P4 to Ex.P21 cannot be relied upon as the said persons were not his drivers or authorized person, the RC of the vehicle was not seen before giving the diesel and ownership was not confirmed. In this regard, it is observed that while appearing as DW2 the defendant himself admitted that whenever, he got filled fuel in the vehicle, the RC regarding the ownership of the vehicle was not seen by any petrol pump owner.



Therefore, transaction cannot be disbelieved on the ground that RC was not seen. In such a situation, the transactions between the parties is established. It is observed that initially onus is discharged by the plaintiff/respondent by producing these receipts. The onus in such a situation shifted on the appellant/defendant to disprove these receipts but no such evidence was produced by him. Not only this, the transactions are proved by the copies of ledger accounts which are on record Ex.P22 to Ex.P25. The defendant/appellant is alleging that these ledger accounts are also forged but there is nothing on the record to establish this fact. These accounts are prepared during the transactions of business, therefore, these can be relied upon. Apart from that ITRs are also placed on record by the plaintiff/respondent which also supports his case.

*22. The defendant/appellant has taken an objection that the alleged vehicles do not belong to him. In this regard, it is observed that PW1 Ishwar Singh produced in his cross-examination the copy of bank Account No.34250544930 of Axis bank in which the payment is stated to be paid by the defendant/appellant regarding those vehicles but there is no cross-examination on this point. Therefore, this point goes unrebutted in favour of plaintiff/respondent. Reliance in this regard can be given of the law laid down by the Hon'ble Supreme Court of India in **Muddasani Venkata Narsaiah (D) Th. Lrs.'s case(supra)**. It amounts to admission which is best evidence. Reliance in this regard can be given of the law laid down by the Hon'ble Punjab & Haryana High Court in **Parkash Kaur and others's case (supra)**. Apart from that the defendant/appellant has not produced his account books to reflect that there was no transaction with the present*



*plaintiff/respondent rather the fuel was taken by him from other petrol pumps. Therefore, the best evidence has been withheld and adverse inference is to be drawn. Reliance in this regard can be given of the law laid down by the Hon'ble Supreme Court of India in **Union of India Vs. Ibrahim Uddin and another's case(supra)** and the law laid down by the Hon'ble Punjab & Haryana High Court in **M/s Jagpreet Commission Agents Village Deep Singh Walia's case (supra)**. In such circumstances, the plaintiff/respondent succeeded in proving his case and same was rightly decreed by the learned trial Court. No interference is required in the judgment/decreed of the learned Trial Court in this appeal. The same deserves to be upheld as regard to the recovery of amount from the defendant/appellant and the appeal is liable to be dismissed."*

14. Ld. Counsel for the appellant is unable to dispute or controvert the above said concurrent findings of fact and/or the legal position noted above. As such, no ground is made out to interfere in the impugned judgments and decrees of the learned Courts below. The present Regular Second Appeal is hereby **dismissed**.

15. Pending applications, if any, stand disposed of.

13.08.2025

Divyanshi

(NIDHI GUPTA)

JUDGE

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No