



IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

120

1. RSA-4849-2017 (O&M)  
Date of decision: 28.04.2025

MUNISH KUMAR & ANR

..Appellants

Versus

NARESH SINGH

..Respondent

2. RSA-4863-2017 (O&M)

SUNIL KUMAR

..Appellant

Versus

NARESH SINGH

..Respondent

**CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present: Mr. Surinder Garg, Advocate  
for the appellants.

Mr. R.V.S. Chugh, Advocate  
for respondent.

**ANIL KSHETARPAL, J(Oral)**

**CM-12833-C-2017 in RSA-4849-2017**  
**CM-12846-C-2017 in RSA-4863-2017**

1. For the reasons stated in the applications for condonation of delay which are supported by the affidavit, the applications are allowed.
2. The delay of 65 days and 74 days, respectively, in filing the appeal, is condoned.
3. CMs stand disposed of.

**Main case**

4. With the consent of learned counsel for the parties, two connected regular second appeals arising from the same suit shall stand disposed of by this common order.



5. The defendants namely two brothers assail the correctness of concurrent findings of fact arrived at by the Courts below while decreeing plaintiff's suit for recovery of Rs.3,06,574/- along with interest at the rate of 12% per annum from the date of institution of suit till realization.

6. The suit was filed by the plaintiff on the basis of books of accounts. It was alleged that plaintiff is a commission agent. He has supplied cotton to the defendants, who are running a cotton factory. There is a running account between the plaintiff and the defendants. Defendant No.2 filed the counter claim claiming recovery of Rs.37,342.28/-

7. Upon appreciation of evidence, the trial Court decreed the plaintiff's suit for recovery of Rs.3,06,574/- along with simple interest at the rate of 12% per annum from 01.04.2012 till realization, which in appeal has been affirmed.

8. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

9. Learned counsel for the appellants has made the following three submissions:-

i. Appellant No.1 Sh. Munish Kumar left the firm on 28.08.2014 and thereafter, Sh. Sunil (appellant No.2) is the sole proprietor, hence, the suit could not be filed against him.

ii. The firm namely M/s Manish Kumar & Company Bhikhi has not been made a party.

iii. The last transaction was in the year 2012, hence, the suit was filed beyond the period of limitation.



10. This Court has considered the submissions of learned counsel for the appellants.

11. The transactions between the parties relate upto the year 2012, hence, Sh. Munish Kumar will be liable.

12. With regard to second submission, this objection is being taken up by the appellants for the first time, which cannot be permitted. Moreover, M/s Manish Kumar & Company Bhikhi is stated to be a sole proprietorship. Both the brothers, who are claiming to be sole proprietors have been impleaded.

13. With regard to last submission related to limitation period, it may be noted here that there is neither any issue nor any discussion by the Courts below. Moreover, the suit was filed on 31.03.2015 claiming that there is a debit balance as on 31.03.2015 after adjustment of debit and credit entries and as per books of accounts, there was an outstanding amount of Rs.3,06,574/- recoverable from the defendants. Once, there is a running account between the parties, the cause of action will not accrue on the date the last transaction took place. In fact, the cause of action will accrue on the day the defendants refused to pay the amount.

14. The last submission of learned counsel for the appellants is that the Courts have erred in keeping the principal amount along with interest at the rate of 12% per annum.

15. It is evident that the parties have entered into a commercial transaction. Only 12% simple interest has been granted, which would translate into a much lesser rate of interest if it is ordered to be compounded.

16. Hence, no ground to interfere is made out.



17. Both the appeals are dismissed.
18. All the pending miscellaneous applications, if any, are also disposed of.

**April 28<sup>th</sup>, 2025**

*Ayub*

**(ANIL KSHETARPAL)  
JUDGE**

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