



**IN THE HIGH Court OF PUNJAB AND HARYANA AT CHANDIGARH**

**222**

**RSA-6399-2018 (O&M)**

**Decided on: 14.05.2025**

**Haryana State Cooperative Supply and  
Marketing Federation Ltd., and another**

**...Appellant(s)**

**Vs.**

**Ishwar Singh**

**...Respondent(s)**

**CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr.D.K.Singal, Advocate for the appellants.

Mr. Anuj Malik, Advocate for the respondent.

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**NIDHI GUPTA, J.**

**CM-17983-C-2018**

Prayer in this application filed under Section 5 of the Limitation Act for condonation of delay of 184 days in filing the accompanying appeal.

Heard.

For the reasons mentioned in the application which is supported by an affidavit of the applicant/appellant No.2, the same is allowed and delay of 184 days in filing the accompanying appeal is condoned.

**RSA-6399-2018 (O&M)**

The defendants are in second appeal against the concurrent judgments and decrees of the learned Courts below, whereby the suit filed by the respondent-plaintiff for declaration that order dated 26.06.2012 vide which the defendants had directed for effecting recovery



of Rs. 1,72,680/- against the plaintiff be declared null and void; **and** for consequential relief of mandatory injunction directing defendants to withdraw order dated 26.06.2012; **and** to refund the amount if any deducted from the plaintiff along with interest @ 18% per annum.

2. Learned trial Court vide judgment and decree dated 13.01.2015 had decreed the suit of the plaintiff with costs holding him *“entitled for the decree of declaration to the effect that order dated 26.06.2012 of the defendants is totally, illegal null and void and is hereby set aside along with the consequential relief of mandatory injunction directing the defendants to withdraw the order dated 26.06.2012 and to refund the amount if any deducted from the plaintiff along with interest @10% per annum along with permanent injunction restraining the defendants from effecting the recovery of amount of ₹1,72,680/- in any way if the same is not recovered.”* The appeal filed by the defendants was dismissed with costs by the learned lower appellate Court vide judgment and decree dated 20.11.2017. Hence, the present regular second appeal by the defendants.

3. It is *inter alia* submitted by learned counsel for the appellants that the learned Courts below were in patent error in decreeing the suit of the plaintiff as the defendants had demonstrated that at the relevant time plaintiff was posted as Store Keeper at Assandh and that the foodgrains were kept in the care and custody of the plaintiff. As such, plaintiff was under legal obligation to keep the stock free from defect. Admittedly, loss is incurred at the time when the plaintiff was Store Keeper; and during his



tenure foreign matter in excess of permissible limits were found in the wheat stock because of which great loss was caused to the appellant-Federation. It is submitted that it was the plaintiff who had not bothered to store the wheat stock in proper manner. Thus, there was gross negligence on the part of the plaintiff resulting into cut of 2% on the total bill. As such, there is no error if recovery is sought to be affected from the plaintiff.

4. Moreover, no evidence was produced by the plaintiff to prove that any instructions were given to him by the District Manager, Hafed that in case of any damage to the wheat stock, Hafed would be responsible for the damage and defect of the wheat stock. It is lastly submitted that bare perusal of the order dated 26.06.2012 Ex.D1 would show that the same has been passed after considering each and every aspect of the matter and each and every contention of the plaintiff. Plaintiff has been unable to demonstrate as to how the order is not sustainable in the eyes of law. It is accordingly prayed that the present appeal be allowed; and the impugned judgments and decrees of the learned Courts below be set aside.

5. *Per contra*, learned counsel for the respondent/plaintiff vehemently opposes prayer made on behalf of the appellants/defendants; and denies that from the evidence produced on record, it has been established that plaintiff was not at fault for any damage caused to the wheat stock. It is submitted that the plaintiff was the only Store Keeper of the foodgrains. As such, his only duty as Store Keeper was to report



shortages and/or complaints regarding quality immediately upon receipt of wheat stock, failing which he would be responsible for the shortages or the quality thereof. Learned counsel points out that in the present case, immediately upon receipt of wheat stock in the godown, plaintiff had written letter dated 26.04.1998 Ex.P2 to the District Manager, Hafed, Karnal regarding the poor quality of stock. However, no action was taken thereupon by the District Manager. As such, plaintiff was correctly held not responsible; and therefore, recovery could not have been affected from the plaintiff. Moreover, pursuant to the impugned judgments and decrees, execution petition filed by the plaintiff has already been satisfied in favour of the plaintiff. Thus, nothing survives in the present appeal.

6. No other argument is raised on behalf of the parties.

7. I have heard learned counsel for the parties and perused the case file in great detail. I find no merit in the submissions made on behalf of the appellants/defendants.

8. It is the admitted case that the plaintiff vide his letter dated 26.04.1998 Ex.P2 had informed the District Manager, Hafed, Karnal regarding the poor quality of wheat stock. He had also informed about the same to the Committee official of HSAMB. If there is any defect in stock then it is the duty of the Store Keeper to inform the District Manager, which was duly done by the plaintiff. In his letter dated 26.04.1998 Ex.P2, the plaintiff has specifically mentioned that there was 60% to 70% moisture in the bags received in the godown, and due to moisture fungus was found in the bags along with DANTHALS and upto some extent of



chaff (TURI) was also found in the bags. The plaintiff had further mentioned in the said letter that he had reported this matter to the purchase authority that low quality of goods with several defects had been purchased but even the purchase authority paid no heed. Plaintiff had even informed the committee officers of the HSAMB however, no action was taken by the seniors of the plaintiff.

9. On the contrary, upon receipt of letter dated 26.04.1998 Ex.P2, the District Manager did not take any effective or positive action on the complaint of the plaintiff regarding the foreign contents found in the wheat stock; but in fact disposed of the complaint Ex.P2 by merely writing “please speak” to Assistant-I. Even from the cross-examination of DW1 Smt.Kiran Malik, it was clear that the concerned District Manager failed to take any action in the matter. In this situation, plaintiff was left with no option, but to dispatch the defective wheat to the Food Corporation of India as per office directions; as he had no power to refuse the delivery.

10. Further, documents Mark-C to Mark-J show that it was normal procedure for the District Manager of Hafed to give undertaking for any loss on account of defect in quality. The documents Mark- C, D and J show that General Manager Hafed had ordered various District Managers, Hafed for recovery from the concerned purchasers due to excess foreign matters in wheat stock purchased during the wheat season. As such, it was clearly and categorically found that plaintiff was not responsible for the defective stock and/or any loss to the appellant.



11. Moreover, plaintiff has demonstrated that as per the duty chart of purchaser/ Mark 'A', it was the duty of the purchaser to ensure that the purchased wheat was according to the prescribed specifications. It was also the duty of the purchaser to ensure that quality of wheat is as per the prescribed specifications. It is also to be considered that the consignment was sent in March 2000; however, defect was pointed out in December 2000; and deduction was made of 2% value of the consignment. Therefore, the delay of more than 9 months in detecting the poor quality of the wheat in the consignment cannot be solely attributed to the plaintiff.

12. Learned counsel for the appellants is unable to dispute or controvert the above said facts and findings on record.

13. In view of the above, no ground is made out to interfere in the concurrent judgments and decrees of the learned Courts below. The present regular second appeal is hereby **dismissed**.

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

**14.05.2025**

Divyanshi

**(NIDHI GUPTA)**  
**JUDGE**

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