

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****111****RSA-2407-2023 (O&M)****Date of decision: 15.07.2025****M/s. Winall Sales Corporation and another****...Appellant(s)****Vs.****M/s. Ashoka Metal Works****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. J.S.Thakur, Advocate for the appellants.

NIDHI GUPTA, J.

Present Second Appeal has been filed by the defendants against the concurrent judgments and decrees of the learned Courts below; whereby the suit filed by the plaintiff/respondent herein, for recovery of ₹4,74,399.61/- (principal amount ₹3,73,543/-; and ₹1,00,856.61/- as interest @ 9% p.a. from 01.04.2014 to 15.03.2017), has been decreed by both the Courts below.

2. Brief facts as pleaded in the plaint were that the plaintiff is a partnership firm. Defendant No.1 through defendant No.2 had purchased C.I. Castings from the plaintiff on credit. The latest bills as enumerated in the plaint were issued from time to time by the plaintiff for the period 08.10.2011 to 28.01.2012. The last amount received by the plaintiff was ₹5,000/- on dated 20.03.2014; whereafter, defendants had made no payment. As per the Statement of Accounts of the plaintiff, as on 31.03.2014, a sum of ₹3,73,543/- was due and payable by the defendants; which had not been paid despite repeated requests. Plaintiff firm had



even served legal notice dated 07.11.2014 however, to no avail.

Accordingly, plaintiff had filed the present suit on 18.03.2017.

3. The suit was resisted by the appellants on various grounds.

4. On the basis of the pleadings of the parties, following issues were framed vide order dated 16.12.2017:-

“1. Whether the plaintiff is entitled for recovery to the amount as prayed for? OPP

2. Whether the suit is barred by way of limitation?OPD

3. Whether no legal or valid notice has been served upon defendant?OPD

4. Whether suit of plaintiff is bad for non joinder of necessary parties?OPD

5. Whether the plaintiff has no cause of action to file the present suit?OPD

6. Relief.”

5. Vide judgment and decree dated 14.08.2019, learned Civil Judge, Junior Division, Jalandhar had decreed the suit of the plaintiff with costs. The appeal filed by the appellants/defendants was dismissed with costs by the learned District Judge, Jalandhar vide judgment and decree dated 20.03.2023. Hence, the present Second Appeal by the defendants.

6. It is *inter alia* submitted by learned counsel for the appellants that the suit of the plaintiff was barred by limitation. It is submitted that as per the plaintiff monies were owed for the period 08.10.2011 to 28.01.2012. The suit was filed on 18.03.2017. It is contented that only with a view to bring the suit within limitation the plaintiff had made false allegation that the defendants had made last payment of ₹5,000/- on 20.03.2014 in cash. It is submitted that no such payment was made by the



appellants. Moreover, all payments were made by the defendants to the plaintiff by cheques. From this the falsity of the case put forth by the plaintiff is borne out. Further, the Id. Courts below have failed to appreciate that in order to bring the suit within limitation, entry of ₹5,000/- was forged and fabricated in the accounts book kept in the ordinary course of business by the plaintiff. The Courts below have failed to correctly appreciate the evidence on record; in particular the evidence of PW1. It is submitted that therefore, the learned Courts below were in a patent error in decreeing the suit of the plaintiff. It is accordingly prayed that the present Appeal be allowed; and the impugned judgments and decrees be set aside.

7. No other argument is raised on behalf of the appellants.

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

9. Undisputedly, receipt of legal notice was admitted by DW1/defendant No.2 in his cross-examination. The record reveals that the plaintiff had led voluminous documentary evidence by producing bills Ex.P3 to Ex.P11; Statement of Accounts Ex.P12; certificate issued under Section 65-B of Indian Evidence Act Ex.P13; copy of legal notice dated 07.11.2014 Ex.P14 and postal receipts Ex.P15 to irrevocably establish on record its case. The said documentary evidence led by the plaintiff remained un-rebutted and unchallenged by the defendants. There is nothing on file to even remotely suggest that evidence of the plaintiff was in any manner false,



untrustworthy or discrepant. The sale invoices Ex.P3 to Ex.P11 produced by the plaintiff for the period from 08.10.2011 to 28.01.2012 were duly proved on record. The Statement of Accounts Ex.P12 duly reflects the said invoices.

10. As regards the payment of ₹5,000/- dated 20.3.2014, the defendants in their evidence have admitted that payments were made to the plaintiff through cheque and cash till 25.08.2012. As such, there are findings of both the Courts below that prior to 20.03.2014 certain payments had been made in cash by the appellants to the plaintiff. Thus, argument of the defendants that payments were made only in cheque, and never in cash is falsified by their own evidence.

11. Plaintiff had also placed on record audit reports of the firm from 01.04.2013 to 31.03.2014. Even from the said audit reports it was proved that the defendants owed a sum of ₹3,73,543/- to the plaintiff firm. It is but trite that if argument of the defendants that no cash payment of ₹5,000/- was made, is accepted, then in the audit reports for subsequent years the amount due towards defendant-firm would have been shown as ₹3,78,543/- and not ₹3,73,543/-. Therefore also, the said payment stood proved. Further, Sale Invoice Ex.P11 is dated 28.01.2012 and by making cash payment of ₹5,000/- on 20.03.2014, defendants had acknowledged their liability towards the plaintiff. Payment of ₹5,000/- on 20.03.2014 was also corroborated by the receipt Ex.PW2/6; as also from the oral evidence of PW1/PW2. Admittedly, no evidence in rebuttal was led by the defendants. It is also to be borne in mind that the defendants had failed to produce any of their account details or invoices which could indicate that suit of the



plaintiff is incorrect. Accordingly, learned trial Court has recorded that:

“DW1 has shown his ignorance as to any entries in Ex.P12. He had opportunity to bring on record his own account statement pertaining to his firm but despite opportunity he failed to bring on the same thereby drawing adverse inference against the defendant firm and in favour of the plaintiff.”

As such, it stands established that the payment of ₹5,000/- had been made in cash by the defendants on 20.03.2014; and therefore, present suit was within limitation.

12. Learned counsel for the appellants is unable to dispute or controvert the above said concurrent findings.

13. In view of the above, I find no ground is made out to interfere in the concurrent findings of learned Courts below.

14. The present Regular Second Appeal is hereby **dismissed**.

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

15.07.2025

Divyanshi

**(NIDHI GUPTA)
JUDGE**

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