

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

RSA No. 3792 of 2007 (O&M)

Date of Decision: 27.4.2009

The Garib Dass Co-op Transport Socieity Ltd.

...Appellant

Versus

State of Haryana and others

...Respondents

CORAM : Hon'ble Mr. Justice Rajesh Bindal

Present:- Mr. S.P. Chahar, Advocate
for the appellant.

RAJESH BINDAL J

The plaintiff is in second appeal before this Court against the concurrent findings of facts by both the Courts below whereby the suit filed by him for permanent and mandatory injunction was dismissed.

In the suit filed the appellant/plaintiff claimed that the route for plying his bus on Sampla to Mangawas was for 37 kms. However, actually it was found to be less than 37 kms and on that account the excess taxes paid by the appellant/plaintiff for 37 kms as against the actual length of the route of 27.50 kms was required to be adjusted. Second relief claimed was that on account of flood in the area, the appellant had not been able to ply his bus and for that period he was entitled to refund of the amount of tax paid.

As far as first claim is concerned the appellant had not been able to prove on record that the actual length of route was 27.50 kms as against the length mentioned in the permit granted to the appellant as 37 kms. One report from XEN, Provincial Division, PWD (B&R), Branch, Jhajjar was produced. That was not proved in accordance with law, as he was not examined as a witness in the case. Still further the appellant had not raised the issue before the competent authority when the route permit was granted to him and he started plying his bus on the route much prior to the filing of the suit.

As far as the second relief is concerned, both the courts below did not find any merit therein. As in the evidence led by the respondents/defendants in the form of Ex.D4 letter dated September 2, 1998, wherein it was mentioned that during the rainy season as against the route originally permitted to the appellant for plying his bus, an alternative route was provided which was going through different villages. Accordingly on that account the appellant had not suffered any loss to claim refund or adjustment of taxes paid by him.

No evidence produced on record by the appellant has been referred to which was either not read or misread by the Courts below. The concurrent findings recorded by Court below are plain and simple findings of facts and giving rise to no question of law, much less a substantial question of law.

The appeal is, accordingly, dismissed.

27.4.2009

Reema

**(RAJESH BINDAL)
JUDGE**