

***IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of Judgment : 02nd November, 2010*

+ **R.S.A.No.26/2002**

VIJAYA BANK Appellant

Through: None.

Versus

DIGVIJAY RANA Respondent

Through: Mr.Ajeet Kumar, Mr.Subhashish
Bowmick & Mr.Vijay Tandon,
Advocates.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

1. Whether the Reporters of local papers may be allowed to see the judgment?

2. To be referred to the Reporter or not? Yes

3. Whether the judgment should be reported in the Digest?

Yes

INDERMEET KAUR, J.(Oral)

1. This appeal has impugned the judgment and decree dated 26.7.2001. The impugned judgment had reversed the finding of the trial judge dated 21.12.1999. The trial judge had decreed the suit of the plaintiff i.e. of the Vijaya Bank. The impugned judgment had dismissed the suit.

2. The matter has remained on board but none has cared to appear for the appellant. On 27.9.2010 a specific request had been made by the counsel for the appellant to examine the record; thereafter he has not appeared. The appeal had been admitted on 18.11.2003. Substantial question of law has not yet been formulated. Substantial questions of law formulated in the body of the appeal have been noted.

3. The plaintiff bank had filed a suit for recovery of Rs.98,630.12 against the defendant. It was alleged that the account of the defendant had become overdrawn; an amount of Rs.78,959.12 was outstanding; he was liable to pay interest at the rate of 23% per annum with quarterly rests.

4. The defence of the defendant was that he had deposited an amount of Rs.33,580/-. In February, 1991 there was a credit balance of Rs.1452.57 in his favour. The credit card issued to him in February 1991 was never utilized.

5. The impugned judgment had noted that the trial court had decreed the suit of the plaintiff on the basis of entries in the statement of account Ex.PW1/3. Testimony of PW1 and PW2 had been re-appreciated. The impugned judgment had further noted that the charge slips were not produced; this was primary evidence in the absence of which a money decree could not follow.

6. The relevant extract of the aforementioned finding is reproduced hereinbelow:

“7. If we compare the charge slips Ex.PW2/1 to PW2/8 with the statement of account Ex.PW1/3, it will be seen that the charge slips pertaining to the debit entries made after 27.02.1991, have not been produced by the respondent bank. The charge slips bearing signature of the card holder were the primary evidence which were required to corroborate the entries made in the account books. Since the charge slips were not produced, a money decree should not have been granted merely on the basis of debit entries shown in the statement of account Ex.PW1/3.”

7. This finding calls for no interference. It can in no manner be said to be perverse or out of context. No question of law much less any substantial question of law has arisen in this appeal; it is dismissed.

INDERMEET KAUR, J.

NOVEMBER 02, 2010.

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