

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

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Regular Second Appeal No.3411 of 2013
Date of Decision: September 04, 2015

M/s Atma Ram Sohan Lal

...Appellant

Versus

Harjinder Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Vivek Suri, Advocate
for the appellant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this appeal is to the judgment passed by the learned Additional District Judge (Fast Track Court), Patiala, dated 30.05.2013 by which the appeal preferred by the respondent-defendant has been allowed setting aside the judgment and decree dated 06.09.2011 passed by the Additional Civil Judge (Senior Division), Patiala, whereby the suit for recovery of ₹54,846/- has been decreed along with 9% interest during the pendency of the suit and 6% interest thereafter till the date of realisation.

2. It is the contention of the learned counsel for the appellant-plaintiff that the appellant-plaintiff had supplied certain material to Elora Theatre, Model Town, Patiala. After supply of the said material, the name of the said theatre was changed to Tagore Theatre, Patiala. The respondent-defendant was the Managing Director of the Tagore Theatre and in order to make part payment of the bills raised, he had issued a cheque amounting to ₹30,000/-, which was dishonoured. Faced with this situation, the suit for recovery has been filed. He contends that the judgment passed by the Lower Appellate Court cannot be sustained as respondent-defendant

has not been impleaded in his personal capacity and has been impleaded as the Managing Director of Tagore Theatre, Model Town, Patiala, which is an entity which has come into existence after the change of name of the previous legal entity i.e. Elora Theatre, Model Town, Patiala. Further, he had been impleaded as a party-respondent as he had issued the cheque, which has been dishonoured and, therefore, he has rightly been impleaded as a party-respondent and the suit preferred against him. He thus contends that the appeal may be allowed by setting aside the judgment and decree passed by the Lower Appellate Court and restoring that of the trial Court.

3. I have considered the judgments passed by the Courts below with the assistance of the counsel for the appellant-plaintiff but am not able to accept what has been asserted by him.

4. The argument, as has been raised by the counsel for the appellant-plaintiff although may be part of the pleadings but in the evidence, which has been led in the form of affidavit Exhibit PW-2/A of Shri Mahesh Bansal, who appeared on behalf of the appellant-plaintiff firm, not a single word has been mentioned as to how the respondent-defendant is concerned with Elora Theatre, who had been supplied the material. As a matter of fact, the bills have also been raised in the name of Elora Theatre, Model Town, Patiala. The credit memos Exhibit P-1 to P-6 are not in the name of Harjinder Singh rather they are in the name of Elora Theatre. Merely because a cheque of ₹30,000/- had been issued by respondent-defendant, which has been dishonoured, cannot be a ground for filing a suit for recovery against him in his personal capacity when the firm itself has not been impleaded as party-respondent. Since the appellant-plaintiff has not been able to relate the claim vis-a-vis the respondent-defendant for the

material which has been supplied to Elora Theatre, the findings as recorded by the Lower Appellate Court cannot be faulted with. The judgment passed by the Court below being in accordance with law do not call for any interference.

5. Appeal, therefore, stands dismissed.

September 04, 2015
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE