IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.4473 of 2013 (O&M)
Date of Decision.03.09.2015

Manager, The Primary Cooperative Agricultural Bank Limited, Zira and another ....Appellants

Versus

Saudagar Singh ......Respondent

Present: Mr. Vijay Kumar Malhotra, Advocate for
Mr. Pardeep Bajaj, Advocate
for the appellants.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

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K. KANNAN J.

1. The defendants are the appellants before this Court. The suit has been filed for declaration that the plaintiff had paid back the loan to the defendants and that the defendants are not entitled to recover any amount from the plaintiff regarding the loan advanced for tractor. Objection was taken regarding the maintainability of the suit that no notice as contemplated under Section 79 of the Cooperative Societies Act had been issued. However, at the time of trial, the objection regarding the maintainability of the suit had been stated to be not pressed and the Court found that the plaintiff had paid back the loan and obtained a clearance certificate. The contention of the defendants that the plaintiff had obtained yet another loan for purchase of trolley was not properly considered. In the appeal filed by the society, the Appellate Court modified the judgment of the trial Court

and held that the suit filed by the plaintiff for a declaration and for a restraint against the defendants from enforcing the loan ought to operate only against the borrower for purchase of a tractor but with reference to any other loan which was outstanding, the decree obtained by the plaintiff will not come in the way. It also found that the defendants had given up their plea regarding non-maintainability of suit.

2. I do not find that the defendants could be aggrieved about the judgment passed by the Appellate Court. It has correctly considered the fact that any loan which is still outstanding could always be prosecuted by the society according to law and the decree for a particular loan which has been cleared and for which a clearance certificate has also been given cannot be put to any enforcement. The judgment accords with evidence and what is just and I will find no scope for interference.

3. There is no substantial question of law involved especially when the appellants' right to enforce the loan for purchase of a trolley has been preserved. The second appeal is dismissed.

(K. KANNAN)
JUDGE

September 03, 2015
Pankaj*