

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

R.S.A.No.3075 of 2015 (O&M)

Date of Decision: September 28, 2015

M/s Cimplex Machine Tools Corporation, Amritsar

...Appellant

Versus

Punjab Financial Corporation Ltd., Chandigarh & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

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?

Present: Mr.K.S.Rekhi, Advocate,
for the appellant.

AMIT RAWAL, J. (Oral)

CM No.7367-C of 2015

For the reasons stated in the application, which is supported by
an affidavit, delay in making deficiency of court fees as good is condoned.

CM stands disposed of.

CM No.7368-C of 2015

Exemption granted from filing certified copies of judgment and
decree dated 18.1.2011 and Annexures A-1 to A-3.

CM stands disposed of.

CM No.7369-C of 2015

For the reasons stated in the application, which is supported by

an affidavit, delay of 58 days in filing the appeal is condoned.

CM stands disposed of.

RSA No.3075 of 2015 (O&M)

The appellant-plaintiff filed a suit for declaration and mandatory injunction seeking indulgence of the Court that the Punjab Financial Corporation (for short “PFC”) was not within its right to charge the interest as per the whims and fancies, though the plaintiff-appellant has not disputed the fact that it had obtained the loan from the PFC and executed a mortgage deed dated 16.12.1991. Except the findings rendered on issue No.2, rest of the issues were found against the appellant-plaintiff and the suit was accordingly dismissed.

Mr.K.S.Rekhi, learned counsel appearing on behalf of the appellant-plaintiff submits that both the Courts below have committed an illegality and perversity in not rendering the findings as per the oral and documentary evidence, which, *ex-facie*, proved that the PFC had charged the exorbitant interest, i.e., beyond the terms and conditions of the mortgage deed. It is in this context the suit was filed.

I have heard the learned counsel for the appellant-plaintiff and appraised the paper book.

It is a matter of record that One Time Settlement (OTS) was entered into between the appellant-plaintiff and the defendant-Corporation during the pendency of the suit and the factum of the same was intended to be brought on record by the PHC through an application, but the same was dismissed vide order dated 2.4.2008. Once the appellant-plaintiff has entered into OTS Scheme, no cause of action survives in the suit to agitate

the grounds taken therein. I do not find any illegality and perversity in the findings rendered by both the Courts below as the same are based on appreciation of oral and documentary evidence.

Accordingly, the appeal is dismissed.

September 28, 2015
ramesh

(AMIT RAWAL)
JUDGE