IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Regular Second Appeal No.1088 of 2014 (O&M)
Date of decision: 14.08.2015

M/s Surinder Kumar & Sons and another ... Appellants

versus

Punjab & Sind Bank and others .... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Nakul Sharma, Advocate,
for the appellants.

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1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ? No.
3. Whether the judgment should be reported in the digest ?No.

K.Kannan, J. *(Oral)*

CM No.2502-C of 2014

For the reasons stated in the application, delay in re-filing the appeal is condoned.

Application stands disposed of.

CM Nos.2503-2504-C of 2014

Applications are allowed, as prayed for.

Regular Second Appeal No.1088 of 2014

1. The second appeal is at the instance of defendant against whom a suit was filed by a bank for recovery of ₹4,27,848/- on the

basis of 2 loans, one a term loan for ₹70,000/- and another on the basis of cash credit facility availed by the defendant. The suit claim was after giving credit to ₹1 lakh paid on a particular date by the defendant and yet another amount of ₹1,38,000/- paid by him and the suit claim represented the balance which was payable. The defence has been that the suit was not instituted by legally competent person and that further, the signatures had been taken from him on several blank papers and they had been put to use. The defendant had made some payments under pressure and it ought not to be taken as proving any admission of liability. It was also the contention that on the relevant date when the loan was said to have been advanced, he was suffering from typhoid as spoken to by a doctor and he could not have been present in the bank. The defendant wanted to rely upon yet another circumstance as not making possible to believe that the loan would have been advanced by reference to the fact that criminal complaint had been lodged against the Branch Manager for some improprieties and illegalities in the grant of loan. The trial Court decreed the suit and rejected the defence. The appellate court also confirmed the same.

2. The public sector banks operating on public funds are expected to behave in ways which behove their status as such. It cannot be very lightly inferred that the bank takes signatures on blank papers, advances no money but still the defendant would go

voluntarily to deposit money in the banks on various times, not small money but the amount to the tune of ₹1 lakh and ₹1,38,000/- under some pressure. I would take it to be pure by a cock and bull story that there was a compulsion for the defendant to make those payments when there were no borrowals. I would find this to be an important circumstance to prove the existence of loan and I will discard the evidence that the signatures were taken on blank papers. The non-maintainability of suit for alleged permission and the so-called documentation relating to the collection of security have no meaning and the courts below have found that defences had no basis in pleadings.

3. The suit is for enforcement of simple money debt and not for sale of hypothetic. Any reference to collection of documents for security have, therefore, no meaning. Even the contention that the defendant was suffering from typhoid and hence, he could not have gone to the bank would require to be only stated to be rejected, for, there is no clear defence that he was admitted in the hospital on the day of execution of the instruments which had been sued open by the plaintiff bank. I would find that there is nothing substantial in defence for consideration of the second appeal. Second appeal is dismissed.

(K.KANNAN)
JUDGE

14.08.2015
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