

**C.M. Nos. 2645-46-C of 2014 &
RSA No. 1148 of 2014 (O&M) and another connected case** 1

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: 17.12.2015

**C.M. Nos. 2645-46-C of 2014 &
RSA No. 1148 of 2014 (O&M)**

Manju Chalana

....APPELLANT

VERSUS

State Bank of India

....RESPONDENT

RSA No. 1169 of 2014 (O&M)

Vivek Chalana

....APPELLANT

VERSUS

State Bank of India

....RESPONDENT

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Anand Chibbar, Sr. Advocate,
with Mr. Vaibhav Sahni, Advocate,
for the applicant/appellant(s).

AUGUSTINE GEORGE MASIH, J. (ORAL)

C.M. No. 2645-C of 2014

Prayer in this application is for condonation of delay of 169 days in re-filing the appeal.

For the reasons mentioned in the application, which is duly supported by the affidavit of the appellant, the present application is allowed. Delay of 169 days in re-filing the appeal stands condoned.

C.M. No. 2646-C of 2014

Prayer in this application is for exemption from filing true

typed copies of judgments and decree passed by the Lower Courts and certified copy of judgment and decree dated 30.10.2006 passed by the trial Court.

Prayer granted. Filing of true typed copies of judgments and decree passed by the Lower Courts and certified copy of judgment and decree dated 30.10.2006 passed by the trial Court is dispensed with.

Application stands disposed of.

RSA No. 1148 of 2014

By this order, I propose to dispose of two appeals bearing RSA Nos. 1148 and 1169 of 2014. For convenience, facts are being taken from RSA No. 1148 of 2014.

Challenge in this appeal is to the judgment and decree passed by the Civil Judge (Junior Division), Chandigarh dated 11.11.2006, whereby the suit preferred by the respondent-State Bank of India for recovery with future interest @ 15% per annum with quarterly rests, stands partly decreed entitling the respondent-Bank to recover ₹ 96,206/- along with interest @ 15% per annum from 10.03.1998 till the date of realization with other further rights to the Bank and the appeal preferred by the appellant-defendant against the said judgment and decree has been dismissed by the District Judge, Chandigarh on 06.03.2013.

2. It is the contention of the learned senior counsel for the appellant that the respondent-Bank has not pleaded in the suit with regard to the balance confirmation. He contends that without such a confirmation being there, the said documents could not have been relied upon by the Bank to hold the suit to be within time nor could the legal notice be taken into consideration. He, accordingly, contends that the suit preferred by the

respondent-Bank being time barred could not have been decreed as the last entry was in the year 1996. He, thus, contends that the judgments and decree passed by the Courts below deserve to be set aside and the suit of the respondent-Bank dismissed.

3. I have considered the submissions made by the learned senior counsel for the appellant and with his able assistance, have gone through the impugned judgments but do not find any illegality in the same as the Courts below have, in detail, gone through all the aspects and relying upon the provisions, as contained in Sections 139 and 141 of The Indian Contract Act, 1872, proceeded to hold that the suit is well within time. Further, the documents, objections to which have been taken by the counsel for the appellant, were not required to be pleaded as the same have not been disputed as the same have been brought out by the respondent-Bank from their official record and the signatures thereon have also not been disputed rather admitted by the appellant in cross-examination. The findings, as recorded by the Courts below cannot be faulted with. Further, there is no legal infirmity in the judgments impugned, which would call for any interference by this Court.

4. At this stage, learned senior counsel for the appellant states that the appellant would approach the respondent-Bank for availing of any other benefit of any policy floated by the RBI or the respondent-Bank including One Time Settlement Policy. The Court would not like to comment upon the same. If the same is permissible in law, the appellant may avail of the remedy accordingly.

5. There being concurrent findings recorded by the Courts below on the facts of the case, which have been found to be based on proper

appreciation of the pleadings and the evidence produced by the parties, there is no illegality in the impugned judgments passed by the Courts below. Further, there is no substantial question of law in these appeals, which requires consideration of this Court.

6. In view of the above, finding no merit in these appeals, the same stand dismissed.

**(AUGUSTINE GEORGE MASIH)
JUDGE**

December 17, 2015

pj