THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No. 4535 of 2015 (O&M)
Date of decision: September 4, 2015

Haryana Roadways

...Appellant

Versus

Dhoop Singh and others

...Respondents

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?**

Present: Mr. Pritam Singh Saini, Additional Advocate General, Haryana, with Mr. Ayuwan Singh, Advocate, for the appellant.

K. KANNAN, J. (Oral)

CM No. 10880 C of 2015

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

Main case

1. An Account Officer on behalf of General Manager, Haryana Roadways, Sonepat, gave a letter to the Manager, Syndicate Bank, Sonepat, that in consideration of a loan granted for Rs. 40,000/- for its employee, they give an irrevocable undertaking that in case the employee did not re-pay the loan, they will deduct such loan installment from his salary and credit to his loan account maintained by the bank. The undertaking was set to “remain irrevocable till the above loan was closed in full and final settlement.” The employee had been allowed to voluntarily retire from

service even before the loan was fully discharged. The bank filed a suit for recovery against the principal debtor, yet another guarantor as well as the employer on various instruments which the bank held. As far as the employer is concerned, the Bank was acting on the irrevocable undertaking given that they would recover the amount in the event of the employee not re-paying the loan till the loan was closed in full and final settlement. A decree was passed against all the three including the Haryana Roadways, which had given the letter through the Account Officer acting on behalf of the General Manager. The decree was confirmed by the first Appellate Court.

2. The judgments of the courts below are assailed by the Haryana Roadways on a contention that the bank had a guarantee issued by yet another person and the enforcement of liability could arise only so long as the employee was in service and when instead of paying salary to the employee they would deduct the same from salary and paid over to the bank. The letter issued by the Account Officer cannot constitute a legal liability as though it was a guarantee.

3. I reject this argument as untenable, for, Section 2 (d) of the Contract Act, makes possible that a stranger to the consideration can well be sued while a stranger to the contract cannot be. Though the money had not been advanced to the Haryana Roadways, it had given an undertaking which was irrevocable, prefacing the undertaking to be in consideration of the loan granted to the employee. Such undertaking was perfectly enforceable as the liability incurred by the employer for a loan available by the employee. There is no error in the decree for intervention in the second appeal. The substantial question of law that arises already is well answered against the

appellant and there exists none to its favour.

4. The second appeal is dismissed.

September 4, 2015 **(K.KANNAN)**
prem **JUDGE**