IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

R.S.A. No. 988 of 2015 (O&M)
Date of Decision:- 13.08.2015

Tarlochan Singh and others

.....Appellants

Versus

Punjab and Sind Bank

.....Respondent

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

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

Present: Mr. G.S. Sirphikhi, Advocate, for the appellants.

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SHEKHER DHAWAN, J.

Present Regular Second Appeal is against concurrent findings of both the Courts below whereby Court of first instance decreed the suit of plaintiff and the first appellate Court dismissed the appeal filed by defendants.

2. For the sake of convenience, the parties are being referred to as per their status before the Court of first instance. The detailed facts of the case have already been recapitulated in the judgments of the Courts below. Relevant facts for the purpose of decision of present regular second appeal that plaintiff filed suit for recovery of ₹4,03,110/- on account of principal and interest, as financial assistance was provided in

favour of defendants and in turn defendants executed various documents including demand promissory note, undertaking the payment of agreement dated 23.12.1995 and undertaking of utilization etc. Thereafter, defendants could not make payment as per financial discipline laid down by the parties and plaintiff has filed a suit for recovery after issuing legal notice. Defendants contested the suit with the averment that suit was not filed by duly authorized person, as there was no power of attorney in favour of Manager of the Bank. The documents were executed by Sukhdev Singh Sohal, then Manager of plaintiff Bank, but he was not examined, despite the fact that the witness was available. However, the Court of first instance after considering all the material facts and evidence, decreed the suit of the plaintiff for recovery. Defendants preferred appeal but remained unsuccessful.

3. Learned counsel for appellants mainly took the plea that acknowledgments in this case were not signed by plaintiff rather the signatures were obtained on blank papers and as such suit was not maintainable. More so, suit has not been filed by authorized person, as Order 29, Rule 1 CPC do not authorize to file suit without the authority letter. In support of his arguments, learned counsel for the appellants placed reliance upon judgment from Hon'ble Madhya Pradesh High Court in case **<u>Bank of Baroda</u>** Vs. **<u>Kailash Chandra and others</u>**, **1990 ISJ (Banking) 361**. Reliance has also been placed upon judgment from Hon'ble Calcutta High Court in case **<u>Gyaneshwar Mishra and others</u>** Vs. **<u>Rabindra Nath Jaiswal and others</u>**, **2002(2) ICC 186**. On the same

point, reliance placed upon judgment from Delhi High Court in case **M/s Nibro Limited** Vs. **National Insurance Co. Ltd.**, **AIR 1991 Delhi 25**.

4. As regards to signing of acknowledgment slips by defendants, the same has been proved to be duly executed. The Court of first appeal recorded findings that defendants admitted the execution of loan documents and now defendants simply trying to avoid the same. As regards to filing of suit by authorized person, Order 29, Rule 1 of CPC clearly lays down that suit can be filed by responsible officer of any Corporation and in the present case suit was filed manager of the Bank, who is otherwise well conversant with the facts of the case and has been authorized to file the suit on the basis of general power of attorney. Similar matter had gone before Hon'ble Supreme Court in case **United Bank of India** Vs. **Naresh Kumar and others**, **1997 AIR (SC) 3,** wherein, it has been observed that Order 29 Rule 1 of the Code of Civil Procedure, as a company is a juristic entity, it can duly authorise any person to sign the plaint or the written statement on its behalf and this would be regarded as sufficient compliance with the provisions of Order 6 Rule 14 of the Code of Civil Procedure. A person may be expressly authorised to sign the pleadings on behalf of the company, for example by the Board of Directors passing a resolution to that effect or by a power of attorney being executed in favour of any individual. In absence thereof and in cases where pleadings have been signed by one of it's officers a Corporation can ratify the said action of it's officer in signing the pleadings. Such ratification can be express or implied.

5. In view of ratio of law laid down by Hon'ble Supreme Court in **United Bank of India** Vs. **Naresh Kumar and others, case (supra)** and the concurrent findings of fact recorded by both the Courts below, there is no substantial question of law involved in the present petition, calling for interference, by way of present Regular Second Appeal. The Regular Second Appeal is without any merit and the same stands dismissed.

(SHEKHER DHAWAN)
Judge

August 13, 2015
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