

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CR No. 3231 of 2014 (O&M)

Date of decision: 07.04.2016

Ashok Kumar

... Petitioner

versus

M/s Vikram Electric Equipment Pvt. Ltd.

.... Respondent

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Sandeep Kotla, Advocate for the petitioner.

Mr. Chetan Mittal, Advocate with

Mr. Mayank Aggarwal, Advocate for the respondent.

K.Kannan, J. (ORAL)

The revision petition is against the order dismissing an application for rejection of plaint. The suit was for recovery of money alleged to be due from the defendant. The defendant's contention was that there was never any transaction between the plaintiff and the defendant and no amount was due and payable. The plaintiff was relying on the cheque issued by one Shivraj Singh Dabra and encashed through the Bank namely, Amro Bank by the defendant. The defendant's contention was that the money paid by Shivraj Singh Dabra was in individual capacity and therefore the plaintiff cannot rely on the said payment made by Shivraj Singh Dabra. The plaintiff wanted to contend that Shivraj Singh Dabra was his broker and that the amount paid to the defendant was to the benefit of the plaintiff. The defendant was relying upon the fact that there was no pleadings that Shivraj Singh Dabra was the plaintiff's broker.

Order 6 Rule 2 CPC requires that all the essential facts to be pleaded and matters of evidence need not be pleaded. If the plaintiff

was, therefore, trying to explain that a particular amount which was encashed by the defendant was literally the amount paid through Shivraj Singh Dabra, it is a matter that would required to be examined at the evidence and cannot give a justification for the defendant to have the contention rejected. The definition of consideration under Section 2 (d) of the Contract Act allows for the detriment to be suffered either a promisee or any other person. The precept in law is that a contract could be enforced even by a stranger to consideration. What the law prohibits only is that a contract cannot be enforced by a stranger to contract itself. What was a matter of evidence could not have been stated as an objection for rejection of plaint. The contention by the defendant for rejection was correctly dealt with by the trial Court and there is no scope for interference in revision.

The civil revision petition is dismissed.

(K.KANNAN)
JUDGE

07.04.2016

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