IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.3170 of 2011 (O&M)
Date of decision : 11.01.2016

Parvinder Sharda ...Appellant

Versus

Centurian Bank of Punjab Ltd. and ors. ...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

1. Whether reporters of local newspapers may be allowed to see judgment ?
2. To be referred to reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present: Mr. Surinder Sharma, Advocate for the appellant.

Mr. R.S. Bhatia, Advocate for the respondents.

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AMIT RAWAL, J. (Oral)

The appellant-plaintiff is in Regular Second Appeal against the concurrent findings of the fact, whereby suit for permanent injunction against the bank restraining them not to take the forcible measures in recovering the amount except in due course of law, has been dismissed by both the Courts below.

Mr. Surinder Sharma, learned counsel appearing on behalf of appellant-plaintiff submits that appellant-plaintiff was constrained to file the suit on the ground that bank had been sending the Recovery Agents for recovery of the amount, whereas the entire outstanding loan liability has been discharged rather bank has issued No Objection Certificate and this fact has not been noticed by the Courts below but the appellant has been relegated to launch/initiate criminal case in case any cause of action survives, thus, there is illegality and perversity in the judgment and decreed rendered by both the Courts below, much less, substantial question of law arises for determination.

Mr. Bhatia, learned counsel appearing on behalf of respondent-Bank submits, that bank has filed complaint under Section 138 of the Negotiable Instruments Act for dishonouring of the cheque. Moreover, such type of injunction suit is not maintainable under the provision of Section 41 of the Specific Relief Act. Even the authenticity of NOC alleged to have been relied upon by the appellant was seriously disputed and thus, no substantial question of law arises for determination.

I have heard learned counsel for the parties and appraised the paper book.

In my view, no cause of action accrued in favour of appellant-plaintiff in filing the suit. The remedy if any was to move the complaint to the police with regard to the perpetual visits of Recovery Agents, if any, who had allegedly been giving threat of the recovery of the amount. Once the bank has already initiated proceedings under Section 138 of the Act, the appellant-plaintiff can take all possible pleas in those proceedings than one which have been taken in the present suit.

Keeping in view the aforementioned facts, I do not intend to differ with the findings rendered by both the Courts below, much less, no substantial question of law arises for determination.

Appeal is dismissed.

11.01.2016 **(AMIT RAWAL)**
pawan **JUDGE**