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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.2963 of 2013
Date of decision: January 25, 2016

Anurag and another

.......Appellants

Versus

State Bank of Patiala

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. I.D. Singla, Advocate
for the appellants.

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SABINA, J

Respondent had filed suit for recovery against Raghubir Dayal Aggarwal. During the pendency of the suit, Raghubir Dayal Aggarwal died and his legal representatives were brought on record.

The case of the plaintiff-bank was that defendant was working as a Manager for the period w.e.f. 15.04.1997 upto 15.10.1999 at Hisar. Thereafter, defendant was transferred to Chandigarh and was placed under suspension. Defendant was involved in number of illegal and fraudulent activities. Defendant had withdrawn money from the dead accounts etc. On 07.11.1998, defendant passed refund voucher of ₹1,00,000/- from closed current account of M/s Mahesh and Sons. The said account had been closed on 29.10.1998. FIR No.432 dated 17.10.1999 was got registered at Police Station City Hisar against the defendant under

Sections 409, 420, 120-B of Indian Penal Code, 1860. Inquiry was conducted against the defendant and it transpired that he had misappropriated a sum of ₹2,14,296/-. On 08.09.1997, defendant had allowed the withdrawal of ₹48,130/- from Savings account No.10746 in the name of Subhash Chander by clearing the voucher himself. On 15.07.1997, defendant credited ₹17,925/- in the said account. On 22.07.1997, another bogus entry of ₹30,205/- was made in account No.10746 and later, defendant withdrew the amount from the said account. On 03.12.1997, another bogus credit entry of ₹65,750/- was made by defendant in account No.10746 and on 13.12.1997, an amount of ₹65,800/- was withdrawn by defendant against withdrawal slip, which was missing from record. On 17.03.1998, ₹40,546/- were shown to have been credited in the said account and on 21.03.1998, ₹40,500/- were withdrawn by the defendant. On inquiry, it transpired that the account holder Subhash Chand had neither deposited the aforesaid amount nor had withdrawn the same. Defendant had credited ₹1,100/- in account No.10687 on 15.06.1998 in a bogus manner. A bogus entry of ₹58,716/- was made by defendant in account No.10785 and on 30.09.198. A sum of ₹58,720/- were withdrawn by the defendant from the said account against a withdrawal form, although, Sahab Dayal Ghai had already died on 14.09.1998. As such, defendant had misappropriated ₹3,14,296/- from the accounts of Bank. Hence, the suit for recovery was filed against defendant.

Defendant in his written statement denied the contents of the plaint and averred that he had been suspended in an illegal manner. It was further averred that some other employee of the bank had misappropriated the money in question.

On the pleadings of the parties, following issues were framed by the trial Court:-

> "1. Whether the present suit was filed by duly authorized person?OPP
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> 2. Whether the plaintiff is entitled to recovery ₹3,14,296/- as alleged in the plaint?OPP
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> 3. Whether the suit is not maintainable in the present form?OPD
>
> 4. Whether the plaintiff has no cause of action to file the present suit?OPD
>
> 5. Relief."

Parties led their evidence in support of their respective pleas.

Trial Court vide judgment/decree dated 17.02.2009 decreed the suit of the plaintiff-Bank. The said judgment/decree were upheld by the First Appellate Court vide judgment/decree dated 21.01.2013 in an appeal filed by the appellants-defendants. Hence, the present appeal by the appellants-defendants.

I have heard learned counsel for the appellants and have gone through the record available on the file carefully.

Plaintiff-Bank examined PW1 Sunil Kumar Jain, PW2

Sher Singh and PW3 R.K. Madan. The said witnesses deposed as per the contents of the plaint and proved on record documents in support of their oral version. The Courts below after going through the evidence led on record gave a finding of fact that it was duly proved on record that the defendant had withdrawn amounts in question from the accounts maintained by the Bank on different dates and had misappropriated the same. The Courts below rightly held that in view of the oral and documentary evidence led by the Bank, no reliance could be placed on the statement of DW1 Anurag Aggarwal who had deposed as per the stand taken in the written statement. Learned counsel for the appellants has failed to point out any misreading of evidence by the Courts below. Since the Bank has been successful in proving its case by leading oral as well as documentary evidence qua the misappropriation of money committed by Raghubir Dayal Aggarwal (since deceased), the Courts below had rightly decreed the suit filed by the Bank for recovery.

No substantial question of law arises in this case warranting interference by this Court.

Dismissed.

(SABINA)
JUDGE

January 25, 2016
mahavir