

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

RSA No.3322 of 2016 (O&M)

Date of decision:20.10.2016

Rattan Chand

... Appellant

Vs.

Manager, The Gurdaspur Central Co-operative
Bank Limited

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Ankur Soni, Advocate
for the appellant.

AMIT RAWAL J. (Oral)

The appellant-plaintiff is aggrieved of the dismissal of the suit and appeal filed against thereto seeking mandatory injunction to the effect that defendant be directed to make the payment as per the account book of plaintiff bearing account no.414 lying with the defendant vide ledger Folio No.27/11 dated 19.02.1997.

Mr. Ankur Soni, learned counsel appearing on behalf of the appellant-plaintiff submits that aforementioned suit was filed on the premise that Vijay Kumar was employee of the defendant and Secretary of the Society. Bank had authorized him to collect amount from the defendant as well as other depositors on behalf of the Bank. Vijay Kumar has been collecting the amount from time to time and making entries in the pass book

of the plaintiff. The plaintiff has not obtained any loan from the Bank for any agricultural purposes but the defendant is illegally threatening the plaintiff to deduct the loan for which he has no right. The plaintiff also served a notice upon the defendant on 20.02.2006, whereas, Vijay Kumar is absconding from the criminal proceedings initiated against him. It is in this background of the matter, the suit aforementioned was filed and all these aspects have been ignored by the Courts below, thus, there is illegality and perversity in the impugned judgments and decrees under challenge.

I have heard learned counsel for the appellant-plaintiff and appraised the judgments and decrees of the Courts below and of the view that the relief sought was of 1997, whereas, the suit aforementioned has been filed in the year 2006. If at all, story of the appellant has to be believed, remedy was to seek against alleged action of the Bank by way of declaration and recovery and not by invoking the provisions of Section 39 of the Specific Relief Act, 1963. The lackadaisical approach of the appellant is writ large as he has chosen to file the suit in the year 2006 and filed the appeal after a delay of 860 days in this Court. In my view, the suit ex facie is not maintainable. No sufficient reasons have come forth in seeking condonation of delay.

For the foregoing reasons, the appeal is dismissed on account of delay, as well as on merits. No ground is made out for interference in the findings rendered by both the Courts below which are based on appreciation of oral and documentary evidence.

Accordingly, the appeal stands dismissed.

(AMIT RAWAL)
JUDGE

October 20, 2016
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No