IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA-6147-2015 (O&M)

Date of decision: 23.04.2016

Ramesh Kumar

...Appellant(s)

Versus

The Managing Director, Punjab State
Co-operative Bank, Chandigarh and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Sukhdev S. Kanwal, Advocate for the appellant(s).

JITENDRA CHAUHAN, J.

CM-15390-C-2015

Heard.

For the reasons mentioned in the CM application, which is duly supported by an affidavit of the appellant, delay of 4 days in filing the present appeal is condoned, subject to all just exceptions.

Main case

This is second appeal by the plaintiff, who has been unsuccessful in both the Courts below.

It is the case of the plaintiff that he was given cash credit limit of Rs.2,00,000/- on July 01, 2003, vide account No.CC36 under the name and style of 'Ramesh Traders'. At the time of granting the cash credit limit, the plaintiff deposited original sale deed in respect of land measuring 12 marlas comprised in khasra No.99/2/2/2/1 (0-9) and 2/1/2/1/1 (0-3). Rapat No.758 dated 01.07.2003, was also recorded to the effect of mortgaging the land in dispute in favour of Hoshiarpur Central Cooperative Bank, Tanda. The plaintiff cleared the dues along with upto date interest and the land was got redeemed by the plaintiff. The original sale deed was not returned to the plaintiff. Hence, the plaintiff was constrained to file the present suit.

Upon notice, the defendants controverted the contentions of the plaintiff and submitted that no sale deed is required in case of sanctioning the cash credit limit and as such no sale deed was ever deposited by the plaintiff.

After hearing learned counsel for the parties and appreciating the evidence on record, learned trial Court, vide judgment and decree dated 16.12.2014, held that the plaintiff has failed to prove that he ever handed over original sale deed Ex.P3 to the defendant and dismissed the suit. Feeling aggrieved, the plaintiff preferred first appeal which was also dismissed vide impugned judgment and decree dated 11.08.2015. Hence, this exercise.

Learned counsel for the appellant vehemently contended that at the time of granting loan, respondent No.3-Bank issued letter dated 18.06.2003, Ex.PW5/3, whereby, he was asked to submit a number of documents including the original sale deed. Despite, the clearance of loan amount, respondent No.3 did not return the original documents such as sale deed, mortgage deed, affidavits etc. to the appellant. Despite various requests, reminders and legal notice, the defendants did not return the original sale deed to him. He further contended that both the Courts below fell in error in disbelieving the version put forth by the appellant.

I have heard learned counsel for the appellant and gone through the case file.

The contention of learned counsel for the appellant cannot be accepted as gospel truth that the sale deed was, in fact, delivered to the bank. On a specific query made by this Court, learned counsel for the appellant failed to explain as to what could be the motive of the defendant-bank to retain the original sale deed. There is no evidence worth name produced by the plaintiff-appellant which could suggest that defendant-bank is in custody of the sale deed and therefore, the question of returning the same shall not arise at all. Both the Courts below have rightly concluded that there is no evidence that original of sale deed Ex.P3, was entrusted to the bank. If at all the document is lost, it can be regenerated. Be that as it may, the defendant-bank cannot be found fault with. The appellant-plaintiff has, thus, no case at all.

The concurrent finding of fact recorded by the learned Courts below does not call for any interference in the Regular Second Appeal. There is no substantial question of law in the present Regular Second Appeal.

Dismissed in limine.

23.04.2016 **(JITENDRA CHAUHAN)**
atulsethi **JUDGE**