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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ C.R.P. 4/2016 & C.M. Nos.406/2016 & 407/2016

PRAKASH CHAWLA

..... Petitioner

Through Mr.Pankaj Gupta, Advocate.

versus

HDFC BANK LIMITED

..... Respondent

Through None.

CORAM:
HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

% **14.01.2016**

C.M. No.407/2016

Exemption is allowed subject to just exceptions. Application disposed of.

C.R.P. 4/2016 & C.M. Nos.406/2016

Order impugned before this Court is the order dated 26.8.2015 wherein the application filed by the petitioner/plaintiff seeking a judgment on admission (under Order XII Rule 6 of the CPC) has been dismissed. The Trial Judge had passed a short order.

The first submission of the learned counsel for the petitioner is that this order is cryptic; it does not detail the reasons why his application has been dismissed. Attention has been drawn to the written statement filed by the defendant and the three statements of accounts. Submission being that in all these statements of accounts the balance due from the petitioner was nill. He has paid all his instalments but the respondent has repossessed his vehicle. An order under Order XII Rule 6 CPC should have followed.

The present suit is a suit for mandatory injunction and damages. The petitioner had got a vehicle financed from the defendant. Pursuant to which regular EMIs had to be paid by him. He repaid all the instalments. His submission is that this vehicle was financed in his loan account which was 1232619. All instalments have been paid by him and thereafter an illegal demand of Rs.2434/- has been raised by the defendant which had not been complied with and which had led to the vehicle being repossessed by the defendant.

In the written statement which was filed by the defendant, submission was that the petitioner had taken five loans from the defendant for finance of five different vehicles. Out of the five loan accounts, in three loan accounts he failed to adhere to the terms of the loan agreement and to maintain financial discipline. They were loan accounts No.1281527 (present loan account), 1281584 and 1281565; monies were yet to be recovered.

The statements of accounts filed by the defendant company do not support the submission of the petitioner that all the accounts have been squared. In account 1281527 the PDCs issued by the petitioner stood dishonoured and this finds mention in the said loan account. In the written statement the defendant has explained that since outstanding were due in these three loan accounts in terms of the right of the Bankers' General Lien as per the Contract Act, RBIs Master Circular on Asset Classification July, 2015 as well as terms of the Auto Loan Agreement (clause 19- dealing with Set-Off and Lien of the Loan Agreement) gave a right to the

Bank withhold the NOC towards the loan account in question until the arrears of other loan accounts were cleared. Submission being that because of the liability of the plaintiff/petitioner in the other account the NOC could not be given. In view of the factual matrix, the Trial Court has rightly held that there was no unequivocal admission which entitles the petitioner for a decree under Order XII Rule 6 of the CPC.

Order XII Rule 6 of the CPC provides that on an admission made by either party which is unambiguous, clear and unequivocal a judgment may follow. There are no such admissions made by the respondent as is clear from the factual matrix noted supra. Petitioner was not entitled to a decree under Order XII Rule 6 CPC.

Petition is dismissed with costs quantified at Rs.10,000/-.

INDERMEET KAUR, J

JANUARY 14, 2016
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