IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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RSA No.901 of 2012 (O & M)
Date of Decision:04.12.2017

M/s Sant Industries ...Appellant

Versus

Punjab Financial Corporation and another ...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Nandan Jindal, Advocate
for the appellant.

Mr. Arshdeep Singh Arora, Advocate
for the respondents.

ANIL KSHETARPAL, J.(Oral)

Plaintiff-appellant is in regular second appeal against the concurrent findings of fact arrived at by the Courts below.

Plaintiff had filed a suit for declaration claiming that the order dated 02.09.2003 passed by defendant No.1 is null, void and illegal by which the plaintiff was allowed to deposit the amount under one time settlement scheme. It is not in dispute that the plaintiff had already deposited the aforesaid amount.

Both the Courts after considering the evidence available on the file, dismissed the suit.

At the time of notice of motion, counsel for the appellant had raised following contention:-

> *"Learned counsel for the appellant relies upon a judgment of a Division Bench of this Court in **The State of Punjab and others Vs. M/s Ferozshah Agro Pvt. Ltd.**, 2014 (13) RCR (Civil) 237, to submit that once the*

appellant was entitled to the grant of subsidy by the Government, in terms of a decision admittedly taken by the Government that subsidy was not disbursed to it, the recovery of the loan in the manner that it had been done could not have been done without first adjusting the amount of subsidy.

Though the onus was on the appellant to implead the State Government/General Manager, District Industries Centre, Patiala, to show that the subsidy was actually disbursed by the Government to the PFC, however, the specific contention of the learned counsel is that the subsidy was supposed to have been disbursed and therefore, must have been disbursed to the respondent-Corporation, which despite that did not adjust that amount.

Further, though the onus to show that such subsidy was actually disbursed to the Corporation was also upon the appellant to either have elicited out of the witnesses summoned from the Corporation by way of cross examination etc.,however,since if the appellant's contention is correct,it would obviously amount to gross injustice to the appellant,that the subsidy amount received by the respondent-Corporation was not adjusted against the loan amount, let notice be issued to the respondents, returnable on 20.05.2016."

Today, learned counsel for the appellant has reiterated to the arguments.

In the considered opinion of this Court, this aspect cannot be examined by this Court in this regular second appeal. The subsidy is to be released by the Director Industries Punjab. Director Industries Punjab is not party to this litigation. Plaintiff had filed a suit only against Punjab Financial Corporation and its District Manager. Punjab Financial Corporation had extended some credit facility, payment whereof was not made and ultimately resolved through one time settlement. Appellant would be well advised to seek release of the subsidy in the appropriate proceedings.

Taking into consideration the aforesaid facts, this Court does not found any good ground to interfere with the concurrent findings of fact arrived at by the Courts below.

Hence, this regular second appeal is dismissed.

04.12.2017 **(ANIL KSHETARPAL)**
sheetal **JUDGE**

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