

**HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CA-CWP-19-2017 (O&M)

Date of Decision: 10.09.2018

M/s Bhag Chand Tek Chand

...Appellant

VS.

Punjab Financial Corporation & Anr.

... Respondents

**Coram : Hon'ble Mr.Justice Surya Kant
Hon'ble Mr.Justice Sudip Ahluwalia**

Present: Mr. Raj Kumar Gupta, Advocate for the appellant

Mr. VM Gupta, Advocate for PFC

SURYA KANT J. (Oral)

(1) This Commercial Appeal originates out of an order dated 05.05.2017 whereby learned Single Judge has dismissed the appellant's writ petition seeking refund of the amount, with liberty to the appellant to approach the Civil Court as the issue involved was found to be of civil nature.

(2) As per the facts on record, the second respondent had obtained financial assistance from the Punjab Financial Corporation but having defaulted, action was taken under Section 31 of the State Financial Corporations Act, 1951 against respondent No.2. The application filed by the Corporation was decided in its favour on 12.08.1983 and refund of the principal amount along with interest @ 12½% was ordered.

(3) The Corporation nevertheless was not satisfied and filed FAO No.789 of 1983 claiming interest @ 15½% instead of 12½%. During the pendency of the appeal, the appellant stepped in and purchased the rights of respondent No.2 on payment of due amount to the Corporation along with interest @ 15½%.

(4) While the appellant relies upon an interlocutory order dated 15.03.1989 passed in a miscellaneous application in the pending FAO, the Corporation got the said appeal disposed of as infructuous on receipt of due payment. The appellant thereafter sought revival of the appeal on the plea that he was entitled to seek refund of the excess amount of interest but its application was dismissed though with liberty to avail appropriate remedy. It was thereafter that the writ petition was filed and the learned Single Judge has dismissed the same with liberty to avail the remedy before the Civil Court.

(5) We have heard learned counsel for the parties and are satisfied that there are factual issues involved in the matter which can be effectively adjudicated by the Civil Court on appreciation of the evidence that may be led by the parties. The order passed by learned Single Judge thus warrants no interference. However, in the interest of justice, it is directed that in case the appellant files civil suit, let the same be decided expeditiously and preferably within one year subject to the objections which may be taken by the Corporation in accordance with law.

(6) Disposed of accordingly.

(Surya Kant)
Judge

10.09.2018
vishal shonkar

(Sudip Ahluwalia)
Judge

1. *Whether speaking/reasoned?*
2. *Whether reportable?*

Yes
No