

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 1905 of 2015 (O/M)
Date of decision : 23.1.2018

Punjab National Bank and another Petitioners

Versus

Roshan Lal Kataria and others Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Harsh Aggarwal, Advocate, for petitioners.

Mr. Rajesh Arora, Advocate, for respondent No. 1.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
 2. To be referred to the Reporter or not.
 3. Whether the judgment should be reported in the digest ?
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KULDIP SINGH J. (ORAL)

Petitioners-defendants before the lower Court are aggrieved of the order dated 31.1.2015 (Annexure-P-5), passed by the learned Civil Judge (Junior Division), Kurukshetra, vide which their application filed under Order 7 Rule 11 of Civil Procedure Code, 1908, was dismissed.

Briefly stated, plaintiff-respondent is an ex-employee of petitioner-defendant bank. He is stated to have sought Voluntary Retirement Scheme (in short 'VRS'). He had taken a staff loan, which had softer terms and conditions. After taking voluntary retirement, he filed present suit for declaration, mandatory injunction and rendition of accounts on 22.5.2008. The issues in this regard were framed in the year 2010 and thereafter, the evidence of plaintiff-respondent is going on. Present application was filed in the year 2012 for rejection of plaint. It was stated that suit for rendition of accounts is not maintainable between debtor and creditor.

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However, the lower Court has taken the view that plaintiff-respondent had deposited Rs. 2,34,000/- under protest and that his right to file suit regarding injunction was not waived off and that said controversy can only be decided after recording of evidence.

I have heard the learned counsels for both the parties and have also carefully gone through the file.

The perusal of statements made by both the parties before the lower Court on 11.6.2008 shows that plaintiff-respondent had deposited a sum of Rs. 2,34,000/- and had further stated that he will be bound by the decision of the Court regarding rate of interest. The official appearing for defendant-bank also made a similar statement that they will be bound by the decision of the Court. It goes to show that some triable issues are there, in which the Court is to render a decision. The statements were made by both the parties in the year 2008 and after four years, present application under Order 7 Rule 11 CPC, 1908, for rejection of plaint was filed by defendant-bank in the year 2012.

Though, in view of law laid down by Apex Court in *Church of Christ Charitable Trust and Educational Charitable Society, represented by its Chairman Versus M/s Ponniamman Educational Trust represented by its Chairperson/Managing Trustee*, 2012 (3) Recent Apex Judgments (RAJ) 600, application under Order 7 Rule 11 CPC, 1908, for rejection of plaint, can be filed at any stage. However, since in the year 2008, parties found that triable issues were there, therefore, such application was rightly dismissed. Therefore, there is no ground to interfere in the impugned order.

The learned counsel for petitioners, faced with these circumstances, made a request that plaintiff-respondent is summoning

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unnecessary witnesses and harassing defendant-bank and that the disposal of case is unnecessarily delayed.

It being so, the lower Court is directed to look into this aspect of the case that unnecessary witnesses are not summoned to harass defendant-bank and that the case is expeditiously disposed of.

Instant revision is dismissed with abovenoted observations.

(KULDIP SINGH)
JUDGE

23.1.2018
sjks

Whether speaking / reasoned : Yes

Whether Reportable : No