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

**Civil Revision No.1902 of 2017
Date of Decision: 24.08.2018**

AMIT KHURANA

.....Petitioner

Vs

INDUSIND BANK

....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mohd. Salim, Advocate
for the petitioner.

None for the respondent.

RAJ MOHAN SINGH, J. (Oral)

[1]. Petitioner has assailed the order dated 29.09.2016 passed by the Civil Judge (Jr. Divn.) Mewat, whereby application filed under Section 8 read with Section 5 of the Arbitration and Conciliation Act, 1996 was allowed and the suit filed by the plaintiff was returned after placing on record its certified copy.

[2]. Plaintiff/petitioner filed a suit for mandatory injunction against the defendant/respondent for issuance of clearance certificate i.e. NOC and Form No.35 in respect of the vehicle for which facility of loan was availed. Entire loan amount was repaid to the defendant/respondent.

[3]. Vide order dated 29.02.2016, the Civil Judge (Jr. Divn.) Mewat has noticed the factum of payment of entire loan to the defendant/respondent and defendant/respondent was directed to bring the clearance certificate to be issued to the plaintiff as no amount was due towards him.

[4]. The clearance certificate and Form No.35 in respect of availing facility of loan were withheld by the defendant/respondent on the premise that there are other vehicles also for which the loan was availed by the plaintiff/petitioner and the repayment is still due for those vehicles. The aforesaid reason for withholding the clearance certificate and Form No.35 in respect of availing facility of loan of the vehicle was deprecated and the learned counsel for the defendant was directed to bring clearance certificate for the plaintiff/respondent.

[5]. Learned counsel for the petitioner submitted that the clearance certificate has already been issued to the petitioner, but form No.35 has not been issued so far.

[6]. The perusal of the impugned order would show that the same is totally non-speaking with regard to the material particulars of the case. The interim order dated 29.02.2016 passed by the trial Court is suggestive of the fact that material information was disclosed therein in respect of repayment of

entire loan by the plaintiff to the respondent. Even clearance certificate was issued to the petitioner in compliance of the order dated 29.02.2016. Petitioner had issued a legal notice dated 20.07.2016 and even filed a contempt petition under Section 12 of the Contempt of Courts Act which is still pending before the trial Court.

[7]. In the light of aforesaid attending facts and circumstances of the case, the trial Court was under legal obligation to narrate the factual position in the impugned order. The impugned order is sketchy and totally non-speaking and the same is accordingly quashed. The case is remanded to the trial Court with a direction to pass fresh order in accordance with law in the light of incriminating facts on record.

[8]. In view of above, this revision stands disposed of.

August 24, 2018

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No