

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

RSA No.1733 of 2016 (O&M)

Date of decision:10.05.2018

State Bank of Patiala

... Appellant

Vs.

M/s Bee Gee Corporation (P) Ltd. and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. H.N.Mehtani, Advocate
for the appellant.

Mr. I.S.Ratta, Advocate
for respondents No.1 and 3 (a) (b) (c) and 7.

Mr. Sanjeev Gupta, Advocate
for respondents No.4 and 5.

AMIT RAWAL J. (Oral)

The appellant-plaintiff/Bank is in Regular Second Appeal against the judgment and decree of Lower Appellate Court, whereby, the Court instead of granting the decree of entire outstanding amount, i.e., ₹21,48,221.98 paise, alongwith interest has granted the decree of ₹808171.98 paise alongwith interest @ 14 ¼ % per annum from 25.9.1974 onwards till the date of actual realization.

Mr. H.N.Mehtani, learned counsel appearing on behalf of the appellant-plaintiff submits that judgment and decree of the Lower Appellate Court is not sustainable in the eyes of law, for, the Court below ought not to have permitted the Bank to adjust the amount of ₹13,40,500/- lying in the

custody of the Bank. This case has a chequered history. The preliminary decree was passed in the year 1985 and final decree in 1993. Thereafter, the matter was referred back to the Lower Appellate Court and the Lower Appellate Court remitted the matter back to the trial Court and the remand order was challenged before this Court. During the pendency of SAO, judgment and decree came to be passed, therefore, the SAO had become infructuous. The Court below could not have adjusted the amount in the manner and mode as indicated above, therefore, there is gross illegality and perversity in the findings under challenge.

Mr. Sanjeev Gupta, learned counsel appearing on behalf of respondents No.4 and 5 submits that the Bank had also adjusted the amount and the matter is pending adjudication. In fact, in the decree passed in suit, Bank was ordered to adjust the amount, aforementioned, therefore, there is no illegality and perversity.

I have heard the learned counsel for the parties, appraised the judgments and decrees of the Courts below and of the view that there is no force and merit in the submissions of Mr. Mehtani, for, concededly, claim laid in the suit was with regard to amount of ₹21,48,221.98 paise, alongwith interest with monthly rests. On the basis of preponderance of oral and documentary evidence found that defendants were defaulter and decreed the suit but while noticing the evidence, gave liberty to the Bank to recover the amount from the stock lying in Bank worth ₹13,40,000/- and granted the decree amounting to ₹808171.98 paise. The aforementioned judgment and

decree, in my view, cannot be said to be suffering from illegality and perversity as the entire grievance of the appellant-plaintiff has been redressed. The aforementioned amount also entailed the interest @ ₹14 ¼ % per annum with monthly rests.

No ground is made out for interference in the findings under challenge.

Accordingly, the appeal stands dismissed.

(AMIT RAWAL)
JUDGE

May 10, 2018
savita

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