

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

**RSA No.1610 of 2015
Date of decision:15.01.2018**

Vijaya Bank

...Appellant

Vs.

Smt. Mamta Rani and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Yogesh Goyal, Advocate
for the appellant.

AMIT RAWAL J. (Oral)

The appellant-plaintiff/Bank is in Regular Second Appeal against the judgment and decree dated 24.09.2014 of the Lower Appellate Court, whereby, suit seeking recovery of amount of ₹93,648/- along with interest @ 16.75 p.a with monthly rests, has been dismissed and the judgment and decree date 12.03.2014 of the trial Court, has been set aside.

Mr. Yogesh Goyal, learned counsel for the appellant-plaintiff submitted that facility of loan to the respondent-defendants was extended in the year 2004. Defendant had signed and executed the acknowledgement of debt letters dated 4.12.2006 and 07.11.2009 (Exs.P10 and P-11), confirming the balance in the loan account due towards the appellant bank, whereas, the suit was filed before expiry of three years, i.e., on 03.11.2012. The trial Court negated the objection of the limitation but the Lower Appellate Court has abdicated in setting aside the well reasoned judgment and decree of the

trial Court based upon the oral and documentary evidence, therefore, substantial questions of law arise for adjudication of the present appeal.

I have heard learned counsel for the appellant-plaintiff, appraised the paper book and of the view that there is no force and merit in the submissions of Mr. Goyal, for, the respondent-defendants have emphatically denied the acknowledgement of debt letter dated 07.11.2009 (Ex.P11). In view of such denial, onus shifted upon the appellant-plaintiff to prove the signatures through the handwriting expert. Having failed to do so, the appellant has not discharged the onus, therefore, in my view, the Bank cannot take the benefit of Section 18 of the Limitation Act which deals with the extension of time on the acknowledgement. The Lower Appellate Court being the last Court of facts and law, in my view, has rightly exercised the powers under Section 96 of CPC, therefore, the judgment and decree cannot be faulted with as no substantial question of law arises for adjudication of the present appeal.

Resultantly, the appeal stands dismissed.

(AMIT RAWAL)
JUDGE

January 15, 2018
savita

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