

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

RSA No.6315 of 2016 (O&M)

Date of Decision.08.05.2018

Paradise Forgings Private Limited and another

.....Appellants

Vs

Sanjiv Kumar and others

.....Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Ms. Amandeep Soni, Advocate
for the appellants.

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AMIT RAWAL J.(ORAL)

C.M. No.16564-C of 2016

For the reasons stated in the application, delay of 20 days in re-filing the appeal is condoned.

Application is allowed.

RSA No.6315 of 2016

The appellants-plaintiffs are in regular second appeal against the concurrent finding of fact whereby the suit claiming declaration that appellant-plaintiff No.1 is the allottee and owner of the property bearing No.C-53, Focal Point Extension, Jalandhar allotted by defendant No.2 i.e. Punjab Small Industries and Export Corporation Ltd. (hereinafter called as “PSIECL”) in the name of the plaintiff-company and that plaintiff No.2 continued to be Director of plaintiff No.1 and permanent injunction restraining defendant No.1 from alienating or transferring in any manner the movable and immovable property of plaintiff No.1, has been dismissed by the trial Court and affirmed by the lower Appellate Court.

the appellants submitted that the suit aforementioned was filed by the appellants on the premise that the company was registered under the Indian Companies Act. The aforementioned plot was allotted in the name of company on receiving the sale consideration which was paid by plaintiffs to defendant No.2 and a lease deed dated 10.03.1995 was executed. Plaintiff No.2 being Director and share holder had been managing the affairs of the company but came to know that certain forged and fabricated documents have been filed on 30.08.2000 in the office of Registrar of Companies whereby plaintiff No.2 has been stated to have resigned from the company and defendant No.1 had been appointed as Additional Director on 07.02.1995. In fact, the plaintiff No.2 never resigned from the directorship nor defendant No.1 was ever appointed on 07.02.1995. The Form No.32 dated 30.08.2000 could not have been accepted by the Registrar of Companies.

The suit was contested by the defendants by raising the plea that plaintiff No.2 had resigned from the firm.

In order to buttress her arguments, she referred to the statement of PW1 Harbans Singh, UDC, Office of Registrar of Companies, Chandigarh, who tendered into evidence his duly sworn affidavit Ex.PX stating that the office did not have custody of the resignation letter of Anil Kumar and the resolution passed by the Board of Directors. That itself was a sufficient piece of evidence for the Courts below to decree the suit, therefore, there is illegality and perversity.

I have heard learned counsel for the appellants, appraised the paper book and of the view that argument of Ms. Soni is not sustainable, for, DW-2 Paramjit Singh deposed that he brought the summoned record i.e.

appointment of Sanjeev Verma as Director. As per the record, the aforementioned witness stated that Form No.32 had never been challenged. The suit, in my view, claiming declaration in the year 2001 vis-à-vis the resignation of 1995 is barred by law of limitation, for, it could not be brought within the parameters of Article 59 of the Limitation Act to extend the period beyond the date of knowledge, for, all this period, plaintiffs did not raise any point. Even if at all the story coined in the plaint of alleged acquisition of knowledge in August 2000, the plaintiffs instituted the suit in September, 2001 i.e. after one year.

All these points have been looked into by the Courts below in arriving at the concurrent finding of fact and the argument of Ms. Soni has not been able to cut ice to bring the case within the realm of illegality and perversity, much less, no substantial question of law arises for determination by this Court. No ground for interference is made out. The second appeal is dismissed.

(AMIT RAWAL)
JUDGE

May 08, 2018
Pankaj*

Whether reasoned/speaking Yes

Whether reportable No