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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-684-2015 (O&M)

Date of decision : 11.01.2018

M/s Chandigarh Steel and others

... Appellant(s)

Versus

Punjab and Sind Bank

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. G.S. Duhan, Advocate
for the appellant(s).

AMIT RAWAL, J. (ORAL)

The appellant(s)-defendant(s) is aggrieved of the concurrent findings rendered by the Courts below, whereby the civil suit dated 22.04.2005 seeking recovery of amount of ₹ 1 Lac along with interest @ 6% from the date of the institution till its realization, has been decreed.

Mr. G.S. Duhan, learned counsel appearing on behalf of the appellant(s)-defendant(s) submits that due to inadvertence mistake on the part of the officials of the respondent-plaintiff/Bank, an excess credit of ₹ 1 Lac was reflected in the account of the appellant(s)-defendant(s). He further submitted that the suit of the respondent-plaintiff was *ex facie* time barred as the entry was of 08.12.1994, which came to the knowledge only in the year 2002, whereas the notice was sent in the year 2005 and therefore, the Courts below should have dismissed the suit on the ground of limitation. An attempt before the trial Court was made to offer the amount of ₹1 Lac with any interest, but the same was not accepted, thus, the judgments and decrees are liable to be set aside.

I have heard the learned counsel for the appellant(s)-defendant(s) and of the view that the factum of entry showing an excess credit in the account of the appellant(s)-defendant(s) is not disputed. The appellant(s)-defendant(s) has not been able to prove that the entry was not on account of fault of the officials, but it was his money. Once the money did not belong to him, in my view, rigors of the limitation should not come in the way of actual owner of the property i.e. Bank/Financial Institution, who run on the basis of the interest incurred on the deposits and various other transactions. This Court called upon the counsel for the appellant(s)-defendant(s) to apprise the date of the statement recorded before the trial Court, but answer was that the same was not allowed. If at all the appellant(s)-defendant(s) was kind enough to deposit the amount, an application accompanied by affidavit should have been filed enabling the Court to give the verdict on that. The aforementioned effort has now been made in Court, which appears to be afterthought.

For the foregoing reasons, I do not find any illegality and perversity in the judgments and decrees passed by the Courts below as the same are based upon correct appreciation of documentary as well as oral evidence, much less, no substantial question of law arises for consideration. Accordingly, the present appeal is dismissed.

11.01.2018

Yogesh Sharma

**(AMIT RAWAL)
JUDGE**

✓

Whether speaking/reasoned **Yes/ No**

✓

Whether Reportable **Yes/ No**