IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CM No.5830-C of 2017 in/and
RSA No.2402 of 2017 (O&M)
Date of decision: 09.07.2018

Palwinder Singh.

... Appellant

Versus

Union Bank of India and others.

... Respondents

BEFORE: HON'BLE MR. JUSTICE B.S. WALIA.

Present: Mr. R.K. Arya, Advocate for the appellant.

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B.S. Walia, J. (Oral)

[1] The only point urged by learned counsel is that the learned Lower Appellate Court erroneously reversed the judgment and decree passed by the learned Civil Judge (JR) Division, Gurdaspur, (hereinafter referred to as the learned Civil Judge) dismissing the suit in view of paragraph No.9 of the judgment of the learned Civil Judge wherein PW-1 is recorded as having stated that no loan was outstanding against the defendant/appellant in favour of the plaintiff/respondent-bank.

[2] I have considered the submissions of learned counsel for the appellant/defendant and perused the paper-book.

[3] Perusal of paragraph No.15 of the judgment of the learned Lower Appellate Court reversing the judgment and decree passed by the learned Civil Judge and decreeing the suit reveals that it was not a simple

case of loan as the money advanced to the appellant/defendant was against a crop loan limit which was continuous in the sense that customers used to deposit and withdraw money according to their need. As per vouchers Ex.D1 to Ex.D6 for ₹ 1,62,000/-, ₹ 1,65,000/-, ₹ 12,500/-, ₹ 1,64,900/-, ₹ 1,13,200/- and ₹ 1,10,820/-, total amount deposited during the years 2002 to 2003 worked out to more than ₹ 7,00,000/- and as per the stand of the appellant/defendant, against the limit of ₹ 1,50,000/-, he had deposited more than ₹ 7,00,000/-. On 11.05.2007 there were simultaneous entries of ₹ 1,50,000/-, one in the column of deposit and the other in the column of withdrawal and as per the claim of the respondent/plaintiff, the appellant/defendant had deposited ₹ 1,50,000/- and immediately withdrawn the same, therefore the aforesaid amount remained outstanding in his account since then.

[4] Apparently, there was a mistake on the part of the respondent/plaintiff as both entries of the same date were made in the same column but the same does not discredit the claim of the respondent/plaintiff which is based on documentary evidence. The statement of PW-3, R.S. Chohan that the appellant/defendant had already paid the loan amount was partially correct as firstly the appellant/defendant deposited ₹ 1,50,000/- and satisfied the loan account but simultaneously withdrew the said amount from the bank for his need. In support of its claim, the respondent/plaintiff placed on record self cheque of the appellant /defendant of ₹ 1,50,000/- (Ex.DW-2/A). The learned Lower Appellate Court had found that aforesaid cheque was withdrawn by the appellant/ defendant on the same day i.e. 11.05.2007 when the entry in the passbook was made and the same established that the amount was initially deposited by the appellant/defendant and then the same was withdrawn, therefore the balance in the passbook on said date reflected

only ₹ 1727/-. The learned Lower Appellate Court observed that if there was a deposit of ₹ 1,50,000/-, then the same ought to have been reflected in the balance column which was not so. In the aforementioned background, the learned Lower Appellate Court held that it did not agree with the findings of the learned Trial Court that the appellant/defendant deposited the loan amount through vouchers Ex.D1 to Ex.D6, consequentially the entries in the passbook Ex.D7 reflect that no amount was outstanding against the appellant/defendant. The learned Lower Appellate Court further observed that had the appellant/defendant satisfied the loan account, then the security documents which were executed by the appellant/defendant with the bank would have been returned to him immediately but the same was not done rather the said documents were retained by the respondent/plaintiff and produced on record in Court upto Ex.P.36.

[5] In the light of the position as noted above, it is amply clear that the loan account was not a simple loan but a crop limit loan which was continuous in the sense that customers used to deposit and withdraw money according to their need. Learned counsel has not been able to establish that if ₹ 1,50,000/- was deposited on 11.05.2007 and was also withdrawn on the same date then how come the passbook did not reflect balance credit of ₹ 1,50,000/- on 11.05.2007 but only ₹ 1727/-.

[6] In the circumstances, there is no infirmity in the judgment and decree passed by the learned Lower Appellate Court reversing the judgment and decree passed by the learned trial court. No substantial question of law arises. Accordingly, finding no merit in the instant appeal, the same is dismissed.

[7] Keeping in view the fact that the instant Regular Second Appeal has been dismissed, the application seeking condonation of 36 days

delay in late filing of the appeal is only academic, therefore, the same is also dismissed.

(B.S. Walia)
Judge

09.07.2018
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1. Whether speaking/reasoned : Yes/No.
2. Whether reportable : Yes/No