IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

RSA No.5392 of 2017 (O&M)
Date of decision:09.03.2018

Baljinder Singh ... Appellant

Vs.

LIC Housing Finance Limited and another ... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. R.S.Bajaj, Advocate
for the appellant.

AMIT RAWAL J. (Oral)

The appellant-plaintiff is aggrieved of the concurrent findings of facts and law, whereby, suit for permanent injunction restraining the defendants from charging the extra loan amount from him; with a further prayer for directing defendant no.2 to release a sum of ₹1,50,000/- which he had taken as illegal gratification, was dismissed by the trial Court and appeal laid before the Lower Appellate Court also met with the same fate.

The appellant-plaintiff instituted a suit aforementioned on the ground that he had taken a loan of ₹4,50,000/- from defendant no.1-LIC Housing Finance Limited, in the loan account No.51006459. Though many installments had been paid but plaintiff being an illiterate person did not know the intricacy of law, much less execution of the documents where signatures had been obtained as the defendants had been charging the exorbitant interest on the amount of ₹6,00,000/- instead of ₹4,50,000/-.

Respondent No.2 for settlement of the matter had taken a sum of ₹1,50,000/-.

The aforementioned suit was contested by the defendants by taking customary pleas qua maintainability and court fee etc. It was stated that the plaintiff had applied for home loan of ₹9,00,000/- from defendant no.1 which was sanctioned, vide letter dated 23.03.2009 and he signed the documents after admitting the terms and conditions of the agreement. A sum of ₹4,00,000/- was paid to the plaintiff by defendant no.1, vide cheque no.790686 dated 23.04.2009 and another sum of ₹2,50,000/-, vide cheque no.800913 dated 7.8.2009. After the disbursement of loan, the account was running irregular by ₹128770.30 as on 13.05.2011. In that regard, the defendants had right to initiate appropriate legal action for recovery of outstanding amount under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest **Act**, 2002.

The trial Court on the basis of the pleading of the parties framed the following issues:-

"1. Whether the plaintiff is entitled for permanent injunction as prayed? OPP

2. Whether the plaintiff is entitled to release of Rs.1,50,000/- by defendant no.2? OPP

3. Whether the plaintiff is entitled to settlement of amount according to the new banking rules and regulations? OPP

4. Whether the suit of the plaintiff is not maintainable?

OPD

5. Whether the plaintiff has not come to the Court with clean hands and has suppressed the true and material facts from the Court? OPD

6. Relief.”

The trial Court on the basis of the evidence dismissed the suit being not maintainable and the appeal has also met with the same fate.

Mr. R.S.Bajaj, learned counsel appearing on behalf of the appellant-plaintiff submitted that defendant no.2 was instrumental in getting the loan sanctioned from the LIC for the purpose of house loan but in that regard, he turned defaulter on the premise that interest would be less or he would get the rate of interest reduced. LIC Housing Finance Limited cannot be permitted to charge exorbitant rate of interest. All these factors have been proved on record with regard to illegal charging of rate of interest but the Courts below failed to appreciate the same and thus, there is illegality and perversity in the judgments and decrees under challenge.

I have heard the learned counsel for the appellant-plaintiff, appraised the judgments and decrees of both the Courts below and of the view that there is no force and merit in the submissions of Mr. Bajaj.

The terms and conditions of the loan document are sacrosanct and cannot be deviated with intervention of Court. The plaintiff has not been able to prove his case for the purpose of execution of the document but fact of the matter is that loan was disbursed which has been reflected in his account and is required to pay back the same through installments alongwith interest and on default whatever the conditions envisaged with regard to interest. The suit was not maintainable as per the provisions of Section 41 (h) of Specific Relief Act.

As an upshot of my findings, I do not find any illegality and perversity in the findings rendered by both the Courts below which are based upon the appreciation of oral and documentary evidence, much less no substantial question of law arises for adjudication of the present appeal.

No other argument has been raised.

Accordingly, the appeal stands dismissed.

(AMIT RAWAL)
JUDGE

March 09, 2018
savita

Whether Speaking/Reasoned Yes/No

Whether Reportable Yes/No