

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **RFA No. 450/2018 & CM Nos. 22409-10/2018**

% **25th May, 2018**

M/S AKASH DEEP PAPERS PVT. LTD. Appellant

Through: Ms. Neha Garg, Advocate.

versus

THE SECRETARY & ORS. Respondents

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. This Regular First Appeal under Section 96 of the Code of Civil Procedure, 1908(CPC) is filed by the plaintiff in the suit impugning the judgment of the trial court dated 28.2.2018 by which the trial court has dismissed the suit for recovery of Rs.3,33,625/- along with the claim of interest, filed by the appellant/plaintiff against the respondents/defendants.

2. The sister concern of the appellant/plaintiff namely M/s India Trawell was an event management concern organizing events.

M/s India Trawell organized an event namely Ist International Mountain Kanchendzonga Mountain Biking Expedition 2008 organized by the Tourism Department of the Government of Sikkim i.e respondent no.2/defendant no.2. The case of the appellant/plaintiff is that on the request of the respondent no.3/defendant no.3 being the OSD Tourism of the Government of Sikkim, the appellant/plaintiff gave a loan of Rs.2.5 lacs to Sikkim Tourism Development Corporation Ltd. for the Government of Sikkim. Since the loan was not repaid, hence the subject suit was filed for recovery of the amount of Rs.2.5 lacs along with interest.

3. Respondents/defendants contested the suit and denied that the amount of Rs.2.5 lacs was given as a loan because the said amount was given as a sponsorship amount for the subject Mountain Biking Expedition Event. Suit was therefore prayed to be dismissed.

4. After pleadings were complete trial court framed the issues and parties led evidence and which aspects are recorded as under by the trial court:-

“D. ISSUES FRAMED

On 27.04.2012, following issues were framed:-

“1. Whether the amount of Rs.2,50,000/- was given by the plaintiff to the defendants alongwith interest @ 15% p.a. as loan which was to be returned within three months? OPP

2. Whether the amount of Rs.2,50,000/- was in fact given to the defendants as sponsorship amount and not as a loan? OPD

3. Whether the plaintiff is entitled to recover the suit amount from the defendants? If so, at what rate of interest and for what period?

4. Relief.”

E. PLAINTIFF’S EVIDENCE

In support of its case, plaintiff has produced and examined only one witness i.e. Sh. Sachin Gupta, Sh. Sachin Gupta i.e PW-1 is director of plaintiff. PW-1 filed his evidence by way of affidavit i.e Ex.PW-1/A reiterating therein contents of plaint. PW-1 placed reliance upon documents i.e Ex.PW-1/1 to Ex. PW-1/11. No other witness was produced and examined by the plaintiff in support of its case.

F. DEFENDANT’S EVIDENCE

Defendant no.1 & 3 also produced and examined only one witness in support of their case. Sh. Marcus P. Rai i.e Deputy Secretary, Department of Tourism, Govt. of Sikkim, Gangtok appeared in witness box as DW-1. DW-1 filed his evidence by way of affidavit i.e Ex.DW-1/A. No other witness was produced or examined by defendant no.-1 & 3. No evidence has been led by defendant no-2.”

5. The only issue argued before this Court is that the appellant/plaintiff had given a loan of Rs.2.5 lacs and it was not a sponsorship amount. Learned counsel for the appellant/plaintiff also argued that in case the amount was given as a sponsorship amount then like other sponsors the appellant/plaintiff would also have been given sponsorship letter which was not given.

6. Trial court has dismissed the suit by observing that if the amount was given as a loan then the appellant/plaintiff, and which is a company, then in its books of account or income tax returns this

amount of Rs.2.5 lacs would have been shown as a loan outstanding against the respondents/defendants but admittedly no such books of account or income tax returns were filed by the appellant/plaintiff to show that in its books of accounts and income tax returns, there was a loan shown as paid to the Government of Sikkim and to be repayable by the Government of Sikkim.

7. I do not find any illegality whatsoever in the aforesaid conclusion of the trial court and the trial court was justified in dismissing the suit by arriving at such a conclusion.

8. The contention of the counsel for the appellant/plaintiff that the amount was not given as a sponsorship amount but was a loan, inasmuch as other sponsors were issued sponsorship letter but not the appellant/plaintiff, is baseless inasmuch as I do not find that there is such a case pleaded by the appellant/plaintiff in its replication in reply to the written statement of the respondents/defendants where such a defence was raised, and also even in the affidavit by way of evidence filed by the appellant/plaintiff, there is no averment that other persons who gave sponsorship amounts were issued sponsorship letters.

9. In any case I find it absolutely incredible that the Government of Sikkim will be given a loan of Rs.2.5 lacs by a company, and as claimed by the appellant/plaintiff company. Trial court in my opinion was therefore has rightly dismissed the suit on the ground that the said principal amount claimed by the appellant/plaintiff was not given as a loan but was a sponsorship amount paid by the appellant/plaintiff company for the Biking Expedition Event of the year 2008 organized by the Government of Sikkim.

10. Dismissed.

MAY 25, 2018/ib

VALMIKI J. MEHTA, J