IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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RSA No.608 of 2011 (O&M)
Date of decision: 16.01.2019

M/s Vikram Cycle Private Limited ...... **Appellant**

Versus

Canara Bank, Overseas Branch ...... **Respondent**

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. S.P.S. Tinna, Advocate
for the appellant.

Mr. R.S. Bhatia, Advocate
for the respondent.

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ANIL KSHETARPAL, J. (ORAL)

Plaintiff-appellant is in the regular second appeal against the judgments passed by the Courts below.

Plaintiff-appellant filed a suit for mandatory injunction directing the bank to operate account No.27 which the company maintains with the defendant-bank. It was further prayed that the bank be restrained from recovering the amount equivalent to Rs.1,30,000/- US Dollars. It will be noted that the plaintiff being exporter presented a cheque which was encashed but after a period of 11 months, the bank got an information that the cheque is fraudulent. Thus, the dispute arose.

The cheque was encashed on 25.11.1997. More than 20 years have elapsed. Learned counsel for the bank was called upon to explain as to whether after that intimation any amount with respect to cheque in question has been recovered from the bank or not, an affidavit of I. Shabbir

Hussain, General Manager of the Canara Bank has been filed wherein it is admitted that no amount has been recovered from the bank. Still further, even after a period of 20 years, there is no further intimation to the bank after initial information.

Keeping in view the aforesaid facts, the plaintiff who is an exporter and maintains the account with the bank, cannot be permitted to be kept by the bank under its thumb. Once more than 20 years have elapsed, the lien which has been marked by the bank has to be revoked.

Keeping in view the aforesaid fact, the judgments passed by the Courts below directing the defendant to file indemnity bond is set aside. The suit filed by the plaintiff shall stand decreed. It is clarified that in future, whenever bank is forced to pay the amount representing the cheque in question, the bank would have a cause of action to recover the amount from the appellant-plaintiff in accordance with law.

Regular second appeal is allowed.

The pending miscellaneous application, if any, shall stand disposed of accordingly.

(ANIL KSHETARPAL)
JUDGE

16.01.2019
Dinesh Bansal

Whether speaking/reasoned Yes / No

Whether Reportable Yes / No