IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

LPA-890-2016
Decided on: 28.03.2019

Baba Bidi Chand Bricks Udyog Samiti .... Appellant

Versus

Punjab Khadi & Village Industries Board and others ....Respondents

CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Rajesh Bhagal, Advocate for
Mr. R.K. Sharma, Advocate
for the appellant.

None for respondent No.1.

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MANJARI NEHRU KAUL, J.

Challenge in this Letters Patent Appeal is to the judgment dated 22.04.2016 (Annexure P-A) passed by the learned Single Judge, whereby CWP No.20661 of 2012 filed by the appellant was dismissed.

2. The appellant had challenged the letter dated 20.10.2011 (Annexure P-4) written by the respondent-board to the Collector, U.T. Chandigarh for effecting recovery of an amount which was purportedly due towards the appellant under Section 32-A of the Punjab Khadi & Village Industries Board Amendment Act, 1961 (Punjab Act No.12 of 1961). It would be pertinent to mention that when the appellant approached this Court by way of the above mentioned writ mention, the Court while issuing notice of motion on 15.10.2012, had noticed that the appellant-society was willing to amicably settle the matter with the respondent-board after making the requisite payment including adjustment of the interest component. The specific submissions of the appellant-society noticed at the time of notice of motion order dated 15.10.2012, were that the appellant-society had availed a loan of ₹14 lakhs and the interest component on the same was ₹50,000/-. It

was submitted that the total amount of ₹14.50 lakhs would be paid in two installments within the next 6 months. In view of this statement, this Court had been pleased to stay the recovery till the next date of hearing with the stipulation that in case of failure to deposit the same, the benefit of the interim order would go. However, when the matter came up for hearing on the date fixed, it was brought to the notice of this Court by the counsel for the respondent-board that it was not possible to settle the matter at ₹14.50 lakhs, as the total amount recoverable was ₹44 lakhs. It was also brought to the notice of the Court that the appellant had in fact concealed not only this material fact from the Court but had also not disclosed to the Court that a civil suit had been filed earlier for rendition/settlement of accounts from the year 1999 upto date and also for relief of permanent injunction which had been declined by the Civil Court, Patti on 10.05.2007 leading to the appellant withdrawing the suit on 26.08.2009.

3. Learned Single Judge while dismissing vide order dated 22.04.2016 rightly observed that the appellant was guilty of concealment of facts and hence could not be allowed to continue with the writ petition. The relevant extract from the impugned judgment of the learned Single Judge is extracted as under:-

> " xx xx xx xx xx xx
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> After hearing learned counsel for the parties and examining the available record, I am of the considered opinion that the present petition is not maintainable because the cause shown by the petitioner before this Court at the time of notice of motion was that the petitioner was ready and willing to pay the amount of interest i.e. equal to the principal amount and on that premise, this court had ordered that in case the petitioner deposits half of the amount, as offered by him, the

> operation of the impugned order effecting recovery, shall remain stayed. It was not brought to the notice of this Court that the petitioner had earlier filed a civil suit which was withdrawn by it without seeking permission either to file it afresh or to approach this court by way of writ petition.
>
> The petitioner is thus, guilty of concealment of facts and cannot be allowed to continue with the present writ petition. Even otherwise, respondent No.1 has categorically stated that the amount of interest being public money cannot be reduced by them."

4. We have heard learned counsel for the parties as well as perused all the material on record.

5. It goes without saying that the appellant has not approached this Court with clean hands and the petition was filed in this Court by concealing material facts which were well within the knowledge of the appellant. The obligation to approach a Court of law with clean hands is a mandatory obligation which cannot be and should not be compromised under any circumstances. It is evident that the appellant has attempted to pollute the stream of justice with tainted hands. The Court must ensure that its process is not abused by unscrupulous litigants to resort to falsehood or suppress material facts which could have a bearing on the adjudication of issues which may arise in a case. The Supreme Court in "**Ramjas Foundation vs. Union of India (2010) 14 Supreme Court Cases 38**, while dealing with the abuse of process of law observed as follows:-

> " xx xx xx xx xx xx xx xx
>
> 21. The principle that a person who does not come to the Court with clean hands is not entitled to be heard on the merits of his grievance and, in any case, such person is not entitled to any relief is

> applicable not only to the petitions filed under Articles 32, 226 and 136 of the Constitution but also to the cases instituted in other courts and judicial forums. The object underlying the principle is that every court is not only entitled but is duty bound to protect itself from unscrupulous litigants who do not have any respect for truth and who try to pollute the stream of justice by resorting to falsehood or by making misstatement or by suppressing facts which have a bearing on adjudication of the issue(s) arising in the case."

6. In the case in hand, the malafides is writ large as the appellant has taken the shelter of falsehood by misrepresenting and suppressing facts from this Court. Further it may also be noticed that there is a categoric averment that the appellant-society was a defaulter society and had been declared defunct by the respondent-board in the year 2003 because it had failed to submit its utilization certificate and even the installments due, had not been paid by it. Moreover, the amount of interest being public money cannot be compromised with or reduced by the respondent-board.

7. As a sequel to the above discussion, this appeal does not warrant any interference and the order dated 22.04.2016 passed by the learned Single Judge is affirmed.

8. Accordingly, appeal is dismissed.

(AJAY KUMAR MITTAL)
JUDGE

(MANJARI NEHRU KAUL)
JUDGE

28.03.2019

Dinesh

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No