IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No. 104

Case No. : RSA No. 4644 of 2016 (O&M)

Date of Decision : July 08, 2019

Bhagat Ram .... Appellant

vs.

Punjab National Bank and others .... Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL.

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Present : Mr. Anurag Jain, Advocate
for the appellant.

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DEEPAK SIBAL, J. (Oral) :

Respondent no. 1 – Punjab National Bank (for short – the bank) filed a suit seeking therein to recover from the appellant an amount of Rs.1,50,401/- along with future interest. The case set up by the respondent Bank was that the appellant had approached the Bank and requested for the grant of Cash Credit Agricultural Loan of Rs.1,00,000/- under Kisan Credit Card Scheme. Besides the hypothecation of his crop, he also proposed to create mortgage of land owned by him in Village Sadalpur, Tehsil Adampur, District Hisar. After verifying the documents of the appellant, the Bank sanctioned a loan to the extent of Rs.1,00,000/- under Kisan Credit Card Scheme. The appellant was advised by the respondent Bank to get the mortgage deed executed and registered in respect of the mortgaged land as security for repayment of the loan. Accordingly, a mortgage deed dated 18.02.2000 was executed. At the time of disbursement of the loan amount, the requisite documents were signed by the appellant. Since the appellant failed to repay the loan amount, the bank, on verification, found that the appellant did not own any agricultural land and that the mortgage deed executed by him was a false document. The bank approached the police for registration of a criminal case against the appellant but when they refused to do so, an application was filed by the bank under Section 156(3) Cr.P.C., through which proceeding, a criminal case was registered against the appellant and proforma respondents. For recovery of the amount due from the appellant, the bank filed the aforesaid suit.

On being put to notice, the appellant and proforma respondents appeared before the Trial Court and denied having taken any loan from the bank. It was further denied that they have ever hypothecated their crop or any land with the bank. It was pleaded that the Manager of the bank had taken the thumb impression of the appellant on an affidavit which was now being fraudulently used against the appellant.

On the dispute between the parties, the Trial Court framed issues which included the issue whether the bank was entitled to recovery of the amount for which they had filed the suit. The onus to prove such issue was placed on the bank. Two other issues were also framed by the Trial Court which were to the effect that as to whether the bank was estopped by its own act and conduct from filing the suit and whether the bank had concealed material facts from the Court. The onus to prove these two issues were placed on the appellant.

Qua the issue whether the bank was entitled to recover the amount claimed by it, after going through the evidence led and proved by the bank, the Trial Court decided such issue in favour of the bank. On the other two issues, since no evidence whatsoever was led by the appellant, the Trial Court rejected the case set up by the appellant. Accordingly, the respondent bank's suit was decreed. The appellant challenged the decree by way of an appeal, which was dismissed both on merits as also on the ground of unexplained delay of over five years. It is in these circumstances that the appellant has filed the present second appeal.

Learned counsel for the appellant has been heard.

Through its suit, the respondent bank seeks to recover from the appellant an amount of Rs.1,50,401/- along with future interest. According to the respondent bank, such amount had been loaned by it to the appellant under the Kisan Credit Card Scheme only after the appellant had executed the necessary loan documents as also executed a mortgage deed, through which he had mortgaged a part of his land as security. When the appellant had failed to repay the loan amount, investigations done by the bank revealed that the appellant did not own any land and thus, was found to have forged the mortgage deed executed by him. After launching criminal proceedings against the appellant, the respondent bank instituted the present recovery suit.

Before the Trial Court, the appellant bank not only produced but also proved the loan documents executed by the appellant acknowledging the receipt of the loan amount by the appellant from the respondent bank. On the other hand, to prove his version, no evidence whatsoever was produced by the appellant. In fact, the appellant did not even appear before the Trial Court as his own witness in support of the case set up by him.

After sifting the evidence, which had been led by the respondent bank and considering the fact that the appellant did not produce any evidence whatsoever as also his conduct, the Trial Court decreed the respondent bank's suit. The appeal preferred by the appellant was dismissed by the First Appellate Court on merits as also on the ground of delay of over five years in filing of the appeal.

In the light of the above and after going through the judgments as also the record of the case, this Court is of the opinion that the concurrent findings returned by the Trial Court as also the First Appellate Court warrant no interference. No satisfactory explanation by the appellant is also found on the record for the appellant to have filed his first appeal after over five years. Even before this Court, no explanation is forthcoming. Therefore, on this ground also, no fault is found in the dismissal of the appellant's appeal by the First Appellate Court. No question of law much less any substantial question of law is also found to arise in the present second appeal.

Dismissed.

(DEEPAK SIBAL)
JUDGE

July 08, 2019
monika

Whether speaking/reasoned ?	*Yes/No.*
Whether reportable ?	*Yes/No.*