IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

215 RSA-4356-2014 (O&M)

Date of decision: 11.02.2019

CHHINDER PAL SINGH & ANR ... Appellants

Versus

SANJEEV KUMAR & ANR ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Jitesh Sharma, Advocate for the appellants.
Mr. Sandeep Jasuja, Advocate for respondent No.1.
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REKHA MITTAL, J. (Oral)

The present appeal directs challenge against concurrent findings recorded by the Courts whereby suit for recovery filed by the respondent/plaintiff was decreed against Chhinderpal Singh defendant No.1/appellant No.1 to the effect that the plaintiff is entitle to recover a sum of Rs.1,78,247/- as principal amount with interest @ 9% per annum from the date of advancement of loan till filing of the suit with pendente lite and future interest @ 6% per annum till actual realization.

A relevant extract from order of notice of motion dated 26.09.2014, reads as follows:-

> "... Notice of motion only with regard to liability to pay the interest for 08.12.2014 and the execution is stayed only subject to deposit of Rs.1.70 lakh with the Executing Court."

The sole submission made by counsel for the appellants is that as the respondent/plaintiff has not complied with the provisions of Section 3 of The Punjab Regulations Accounts Act, 1930 (in short 'the Act'), the respondent/plaintiff is not entitle to payment of interest.

Counsel for respondent No.1/plaintiff, on the contrary, has refuted contention of the appellants by submitting that no such plea was raised in the written statement nor any issue was pressed before the trial Court, therefore, it is not open for the appellants to raise such a contention. In support of his contention, he has relied upon judgment of this Court **Gulzar Singh Vs. Ramesh Kumar, 2009(2) RCR (Civil) 493.**

Counsel for the appellants, in reply, would argue that even though no such plea was raised in the written statement but this legal issue was raised during the course of hearing before the trial Court, as has been noticed in para 13 of the judgment.

Be that as it may, it is undisputed position of the case that the appellants did not raise such an issue in the written statement nor an issue was framed by the trial Court in this regard.

Section 3 of the Act deals with duty of creditor to maintain and furnish accounts. A relevant extract therefrom reads as follows:-

> (1) A creditor shall in order to comply with the provisions of this Act -
>
> (a) regularly record and maintain an account for each debtor separately, of all transactions relating to any loan advanced to that debtor, in such manner as the [State]Government may prescribe;
>
> (b) furnish each debtor every six months with a legible statement of account signed by the creditor or his agent of any balance or amount that may be outstanding against such debtor on the 30th day of June or 15th Har and the 31st day of December or 15th Poh in each year. This statement of account shall include all transactions relating to the loan entered into during the six months to which the statement relates, and shall be sent, in such manner and in such form and containing such details as the [State] Government may prescribe, on or before the 31st day of August or 15th Bhadon in the case of any balance outstanding on the 30th day of June or 15th Har and on or before the 28th day of February or 15th Phagan in the case of any balance outstanding on the 31st day of December or 15th Poh.

On a pointed query by the Court, counsel for the appellants has expressed his inability to inform if the State Government has made any rules prescribing the manner in which the creditor is required to regularly record and maintain an account for each debtors separately.

The word 'prescribed' has been defined in Section 2(8) of the Act, reads thus:-

> "Prescribed" means prescribed by rules made under this Act.

In absence of any such rules having been referred to, it is difficult to accept contention of the appellants that creditor was obligated to regularly record and maintain an account for each debtor separately and thereafter to furnish legible statement of account to the debtor on the dates prescribed in Clause b of sub-section 1 of Section 3 of the Act. In this view of the matter, contention raised by counsel for the appellants that failure of the respondent to comply with the provisions of Section 3 of the Act would entail rejection of his right to claim interest is not tenable and accordingly rejected.

No other point has been raised.

In view of what has been discussed hereinbefore, finding no merit, the appeal fails and is accordingly dismissed, leaving the parties to bear their own costs. As the appeal has been decided on merits, application for condonation of delay is of academic relevance only.

11.02.2019 **(REKHA MITTAL)**

ashok **JUDGE**

Whether speaking/reasoned: Yes / No

Whether reportable: Yes / No