

In the High Court of Punjab and Haryana at Chandigarh

RSA- 5777 of 2018 (O&M)

Date of Decision: 3.2.2020

Gurmukh Singh

---Appellant

versus

Tajinder Singh and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Bhupinder Ghai, Advocate
for the appellant**

Rekha Mittal, J.

Challenge in the present appeal has been directed against concurrent findings recorded by the courts whereby suit for recovery along with interest, has been dismissed.

The case of the appellant-plaintiff is that the appellant is working and residing in Dubai. Respondents No. 1 and 2-defendants No. 1 and 2 are also stated to be residing in Dubai. It is averred that defendant No. 1 met the appellant-plaintiff and his wife Satwinder Kaur and used to borrow money from appellant as he was not well settled. Appellant also became familiar with defendants No. 3 and 4, father-in-law and mother-in-law respectively of defendant No. 1. It is further pleaded that defendant No. 1 borrowed 26740 Dirhams with the promise to return the same in India for which assurance was also given by defendants No. 3 and 4. The appellant also claims to have made payment of outstanding dues of defendant No. 1 amounting to 20630 AED to First Gulf Bank towards

credit card bearing No. 5122530021456049 on assurance given by defendants that entire amount will be returned to the plaintiff in India.

Both the courts have consistently held that in respect of a transaction that purportedly took place in Dubai, suit has been filed in India and the court in India does not have territorial jurisdiction to entertain and try the present suit.

Indisputably, the transaction with regard to giving 26740 Dirhams by the appellant to defendant No. 1 in Dubai is not evidenced by any documentary evidence much less there being any promise by defendant No. 1 to return that amount in India. One of the plea raised by the appellant is that a panchayat was convened at village Kalewal where defendant No. 1 refused to make payment, therefore, part of cause of action has arisen in territorial jurisdiction of the court in India. The appellant did not appear in the witness box to prove his case. He examined his wife Satwainder Kaur through whom the suit was filed being attorney of the appellant. The story propounded by the appellant with regard to any panchayat in village Kalewal does not find corroboration from an independent source much less documentary evidence. Courts have rightly held that story has been manufactured by the appellant-plaintiff in order to confer jurisdiction upon the court in India.

Counsel, in response to a query, would fairly inform that despite research on the issue of territorial jurisdiction, in compliance of order dated 3.5.2019 passed by this court, he is unable to find any precedent to support cause of the appellant with regard to jurisdiction of the court in India. In this view of the matter, I do not find any reason to interfere in concurrent findings recorded by the courts.

For the foregoing reasons, the appeal fails and is accordingly dismissed in limine. As the appeal has been decided on merits, application for condonation of delay of 476 days in filing the appeal is of academic relevance.

(Rekha Mittal)
Judge

3.2.2020

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No