

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

RSA No.9653 of 2018(O&M)

Date of decision: 13.1.2020

Harminder Singh

.....Appellant

VERSUS

State Bank of Patiala

.....Respondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. P.S. Guliani, Advocate for the appellant.

REKHA MITTAL, J. (Oral)

Challenge in the present appeal has been directed against concurrent findings recorded by the Courts whereby suit for recovery filed by the respondent- State Bank of Patiala (in short 'the Bank') was decreed by the trial Court and appeal preferred by unsuccessful defendant/appellant came to be dismissed by the District Judge, Sangrur.

Counsel for the appellant would argue that trial Court framed issue No.3 on the question of limitation, reads thus:-

“Whether the suit of the plaintiff is time barred? OPD”

It is argued that the trial Court answered this issue against the appellant on the basis of findings recorded in para 21 of the judgment but findings that last installment of loan was obtained by the defendant on 20.06.2012 of Rs.3 lakhs vide document Ex.P20 is incorrect because it is not case of the respondent/plaintiff that last installment of loan was paid to the appellant on 20.06.2012. It is further argued that plea of the Bank is

that there is revival letter dated 25.04.2012 marked as Ex.P16 but there is no reference to said revival letter in notice issued in the year 2015.

Perusal of judgment passed by the trial Court would reveal that in para 17, there is reference that defendant had drawn Rs.3 lakhs from the plaintiff- Bank vide letter Ex.P18. On 20.06.2012, he deposited a sum of Rs.3,10,000/- vide receipt Ex.P19 and on the same day, he withdrew another sum of Rs.3 lakhs vide document Ex.P20. In para 21, the Court has made reference to something transpired from cross examination of DW-2 that last installment of loan was obtained by the defendant on 20.06.2012 vide document Ex.P20. Counsel for the appellant has not pointed out that no such fact has been recorded in cross examination of DW-2. In this view of the matter, contention raised by counsel for the appellant is not tenable.

The appellant assailed the judgment and decree dated 10.04.2017 passed by the trial Court after contest and judgment and decree dated 23.03.2018 passed by the Appellate Court wherein the respondent-Bank was proceeded ex parte. Counsel for the appellant, in response to a query, would fairly concede that as per judgment of Appellate Court, no argument was raised to assail findings of the trial Court on issue No.3 qua limitation. He would further concede that in the grounds of appeal before this Court, no such contention has been raised that counsel for the appellant before Appellate Court raised an issue to challenge correctness of findings of the trial Court on issue No.3 but the same had not been adverted to by the said Court. That being so, it can safely be held that findings of the trial Court on the question of limitation were not assailed before the Appellate Court and as such the same have attained finality.

Counsel for the appellant has made a vain attempt to argue that in the legal notice Ex.P21 issued in the year 2015, there is no reference to the revival letter dated 25.04.2012. The mere fact that revival letter does not find reference in the legal notice ipso facto is not a ground to interfere in judgments impugned.

No other point has been raised.

For the foregoing reasons, finding no merit, the appeal fails and is accordingly dismissed in limine.

JANUARY 13, 2020		(REKHA MITTAL)
‘D. Gulati’		JUDGE
Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no