

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No. 2779 of 2021 (O&M)

Date of Decision: 16.11.2021

M/s Aditya Aluminium

....Petitioner

VS

Om Metallogic Pvt. Ltd. and another

....Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Vivek Sethi, Advocate
for the petitioner

SUDHIR MITTAL, J. (Oral)CM No. 12580-CII of 2021

Application is allowed as prayed for and exemption sought for is granted.

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The plaintiff has filed a suit for recovery of Rs. 1,07,50,663.25 on account of non-payment of price of goods received by the defendant. During the pendency of the suit, an application for additional evidence was filed which was rejected by the trial Court vide impugned order dated 26.08.2021. By virtue of additional evidence, the plaintiff wanted to lead evidence regarding money advanced to the defendants against mortgage of immovable property. The trial Court has held that the pleaded case is only for recovery of money on account of goods sold and not that some money was advanced against a mortgage. Mortgage, though referred to in the plaint was only for the purposes of securing the debt. There is no pleading regarding advancement of money. Evidence in that regard could not be permitted to be led.

Learned counsel for the petitioner has submitted that alongwith the plaint a ledger showing the accounts statement was filed, which shows that money was advanced against the mortgage. Thus, the trial Court was in error in rejecting the application. Alongwith the ledger a certified copy of the statement of current account of the petitioner has also been annexed, which shows that a sum of Rs. 1.02 crores was advanced to the defendants. Thus, rejection of the application is illegal.

The argument raised by learned counsel for the petitioner supports the finding of the trial Court that there is no pleading regarding money having been advanced. Entire suit being for recovery of price of goods supplied, no evidence regarding money having been advanced as loan can be looked into. No argument regarding misreading of the plaint has been raised. I have also gone through the plaint and there is no averment regarding advancing of money. The only averment is regarding mortgage of immovable property to secure the debt.

In view of the above, the revision petition has no merit and is dismissed.

(SUDHIR MITTAL)
JUDGE

16.11.2021

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Whether speaking/reasoned
Whether Reportable :

Yes/No
Yes/No