IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No.117

Case No. : R. S. A. No. 4837 of 2019

Date of Decision : October 04, 2023

Birbal .... Appellant

vs.

Managing Director, Haryana State Co-operative Agricultural and Rural Development Bank and others .... Respondents

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

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Present : Mr. Abhinav Sood, Advocate for Mr. Vikram Singh, Advocate for the appellant.

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GURBIR SINGH, J. :

1. The present Regular Second Appeal has been filed by plaintiff/appellant (hereinafter called – the plaintiff) against the concurrent finding recorded by the learned Courts below.

2. The plaintiff/appellant filed a suit for declaration to the effect that action of defendants/respondents for recovery proceedings of loan amount of Rs.1.5 lakhs taken from defendant no.2 on 02.01.2002 is against principles of natural justice and the plaintiff is entitled to the benefit of debt waiver scheme, launched by Ministry of Finance, Government of India, vide circular dated 28.05.2008. The plaintiff also sought permanent injunction restraining the defendants against recovery of said loan amount.

3. Perusal of the record reveals that the suit was filed on 06.11.2013, wherein the plaintiff sought declaration that he is entitled for waiver of loan amount on the basis of circular dated 28.05.2008. The suit for declaration can only be filed within three years from the date of accrual of cause of action. So, the suit is clearly barred by limitation and deserves dismissal on this count alone.

4. Even coming to the merits of the case, version of the plaintiff is that he was advanced agricultural loan by mortgaging his land measuring 03 bigha 04 biswa by way of security for advancement of loan. The plaintiff could not pay the loan amount the same became overdue on 31.12.2007 and remained unpaid up to 29.02.2008. So, as per the circular issued by Ministry of Finance, Government of India, he was eligible to get his loan amount written off.

5. Learned Trial Court, after going through the facts of the case, has held that the plaintiff admitted that he had taken loan and he did not pay even a single penny to the defendants. It has further been held that under the Scheme, a person was entitled to take the benefit of loan waiver scheme only when he has paid the principal amount by 30.06.2007. However, the plaintiff did not pay any amount and moreover, the said loan was taken for construction of house and the same was not covered within the ambit of Debt Waiver Scheme. So, the learned Trial Court dismissed the suit filed by the plaintiff.

6. Learned First Appellate Court upheld the findings recorded by learned Trial Court and dismissed the appeal filed by the plaintiff. Hence, the plaintiff has approached this Court by way of the present Regular Second Appeal.

7. I have heard the submissions made by learned counsel for the appellant and have also gone through the case file.

8. There is concurrent finding of both the Courts below that the plaintiff obtained the loan for construction of house and apparently did not pay even a single penny till 30.06.2007. In the circular issued by Ministry of Finance, Government of India, on the basis of which the plaintiff is seeking relief, it has been specifically mentioned that a borrower is entitled to take benefit of the Scheme in question, only when he had made payment of principal amount by 30.06.2007 and loan taken for construction of house was not covered within the ambit of the said Scheme. The plaintiff had taken loan for construction of house at his farmhouse. So, it cannot be said that the said was covered under the Scheme in question.

9. In view of the aforesaid, I find no merit in the instant second appeal. The concurrent finding recorded by both the courts below is based on proper appreciation of evidence and does not suffer from any perversity or illegality. No question of law, much less any substantial question of law, arises for determination in the instant second appeal. The appeal is without any merit and is accordingly dismissed in limine.

10. Pending applications, if any, shall stand disposed of along with this judgment.

October 04, 2023 **(GURBIR SINGH)**
monika **JUDGE**

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