

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

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2023:PHHC:125917-DB
FAO-COM-15-2023 (O & M)
Date of Decision: 25.09.2023

Vijay Kumar Verma and another

.....Appellant(s)

Versus

Asset Reconstruction Company Ltd.

....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA
HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN**

Present: Mr. Anant Bir Singh Sidhu, Advocate, for the appellants.

G.S.SANDHAWALIA, J. (Oral)

1. The present time barred appeal is directed against the order of the Commercial Court, Ludhiana dated 09.05.2023 wherein, the application of the plaintiff-respondent for leading additional evidence has been allowed subject to costs of Rs.5,000/- to be paid to the present appellant-defendant.

2. Counsel for the appellant has submitted that the evidence was closed way back in the year 2019 and, therefore, the application for leading additional evidence at the belated stage when the case was fixed for arguments has wrongly been allowed leading to the prejudice being caused to the appellant as such.

3. A perusal of the order under challenge would go on to show that the Court has allowed the Power of Attorney dated 15.01.2019 in favour of Ashish Handa to be brought on record as the same had not been produced at the time of recording of the statement of the said person when he was examined as PW-1. It is accordingly recorded that on account of the negligence, the plaintiff can be burdened with costs but cannot be denied to produce the same and the rules of procedure are meant to advance justice and not to thwart the same.

4. A perusal of the paper book would go on to show that the

respondent-company filed a suit for recovery of Rs.60,23,211/- as per the terms and conditions of loan agreement dated 08.07.2004. The loan had initially been financed by G.E. Countrywide Financial Services Ltd., which was taken over by way of assignment dated 13.02.2013 by the plaintiff. It is in such circumstances the present person was as such was examined and the Power of Attorney which has now been placed on record would only be for the purpose that the said person had authority to depose in favour of the plaintiff. On account of the fault as such of the counsel for not appending the proper attorney and appending the attorney in favour of Bhupinder Singh, Chief Manager, which has inadvertently been placed on record, the plaintiff cannot be prejudiced. Accordingly, an application for leading additional application had been filed.

5. It is settled principle that the rules of procedure are handmaids of justice and a strict view is not to be taken and no prejudice as such would be caused to the appellant if the said Power of Attorney is allowed to be taken on record. Merely on account of the fact that case was pending for long would not be as such a ground to disallow the application.

6. Resultantly, we are of the considered opinion that the order as such passed by the Commercial Court, Ludhiana dated 09.05.2023 does not suffer from any infirmity or illegality which would warrant interference at our hands. Accordingly, the present appeal is dismissed on merits after condoning the delay of 34 days in filing the same.

(G.S. SANDHAWALIA)
JUDGE

25.09.2023
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(HARPREET KAUR JEEWAN)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes
No