

IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

124-1

RSA-2188-1993
Date of Decision: 03.05.2024

PUNJAB NATIONAL BANK AND OTHERS

... Appellants

VERSUS

VINOD KUMAR AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Shrenik Jain, Advocate for the appellants.

None for the respondents.

VINOD S. BHARDWAJ, J. (ORAL)

The appellants-defendants-PNB is in second appeal against the judgment and decree dated 08.01.1992 passed by the then Sub-Judge Ist Class, Ludhiana as well as against the subsequent dismissal of the appeal by the then Addl. District Judge, Ludhiana vide judgment and decree dated 13.09.1993.

The respondent-plaintiff had filed a suit for Permanent Injunction restraining the appellant-PNB from adjusting any amount from FCNRS of the respondent-plaintiff lying deposited with the appellant-PNB with its branch in any manner adjusting or creating any charge for any amount which may be due against M/s P.K. Enterprises or Ashish Kumar- respondents-defendants No.3 and 4 accepting the amount specifically loaned against the said FCNRS.

On consideration of the evidences led by the respective parties, the then Sub Judge Ist Class, Ludhiana allowed the suit by returning findings in favour of the respondent-plaintiff. The subsequent appeal preferred by the appellant-Bank was also dismissed, against which the present regular second appeal has been filed.

Mr. Shrenik Jain, Advocate had sought instructions from the appellant-Bank if it has any subsisting interest in continuation of the present appeal or not, whereupon the following information has been furnished:

“Reg. Investigation in the Decreed A/C M/S P.K. Enterprises

Brief History: Credit facilities were sanctioned in 1989 to the Prop. Firm for Import/Export of Yarn, PVC leather, clothes etc. The account was collaterally secured by FCNR deposit of Rs.1.00 crore. When a/c became bad suit was filed in 1992. FDR amount was paid on the orders of court to the beneficiary of FCNR. Since no stock and collateral is available in the account the account was classified as loss assets. As on date of NPA balance o/s in the account was Rs.49.04 Lacs and suit was filed on 08.04.1992 for amount of Rs.57.97 Lacs. Both the borrower/Guarantor are not traceable and are not residing in India; no collateral security is available (except Cash order for Rs.7.22 Lac which has already been appropriated by the bank) the account was written off.

Bank engaged M/S BLS Detectives Delhi for tracing the borrowers and guarantors along with their attachable assets who have submitted their report and concluded that M/S P.K. Enterprises does not exist. Whereabouts of Mr. Ashish Kumar Walia, borrower & Prop. Of the firm could not be known. It has been reported that Mr. Vinod Kumar Walia, brother of the borrower and guarantor in the case has passed away some time back.

The Detective Agency has also submitted a bill of Rs.20,681/- out of which Rs.10,000/- has already been received by them and Rs.10,681/- is payable.

Action Point

We may pay the balance amount of bill to M/s BLS Detectives Services PVT. Ltd. Who have completed their investigation and has submitted report. We may send the copy of investigation report to Recovery Department with our

recommendations that since the borrower/guarantor are not traceable and bank cannot lay hand on any attachable assets of the borrower/guarantor, we may advise the counsel and matter can be adjourned sine die on the request of the bank. No fruitful purpose will be served keeping the case alive.”

He contends that he is personally not empanelled by the appellant-Bank but he has received the abovesaid information from the appellant-Bank.

It is evident from the perusal of the abovesaid information that the appellant-Bank has already taken a decision that no fruitful purpose would be served by keeping the present appeal pending. It, thus, seems that the appellant bank is not interested in pursuing the present appeal.

Dismissed for want of prosecution.

MAY 03, 2024
rajender

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No