IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

136 **CR-2565-2024 (O&M)**
Date of decision: 06.05.2024

Darbara Singh ...Petitioner.

Versus

Kewal Krishan Narang ....Respondent.

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CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Present: Mr. Gurpal Singh Sandhu, Advocate
for the petitioner.

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<u>Sukhvinder Kaur, J.</u>

By way of present revision petition, the petitioner has challenged order dated 26.02.2024 (Annexure P5), passed by learned Civil Judge (Junior Division) Malout, vide which application filed by the petitioner for directing the plaintiff/ respondent to produce and place on record balance sheets for the financial years 2014-15 to 2023-24, was dismissed.

2. The brief facts relevant for adjudication of the present revision petition are that the respondent filed a suit for recovery of Rs.8,77,800/- i.e. Rs.5,70,000/- on account of principal amount and Rs.3,07,800/- on account of interest @ 18% per month. It was alleged that the petitioner/ defendant had good friendly relations with the respondent. The petitioner had obtained a cash loan of Rs.5,70,000/- from the respondent for domestic needs and as

a part payment, the petitioner issued a cheque No.411910 dated 03.05.2019 at Malout for Rs.5,70,000/- in favour of the respondent, drawn upon Punjab National Bank, Gidderbaha and the said cheque was presented for collection of the cheque amount in Punjab National Bank through his bankers State Bank of India, Malout, which was returned unpaid by the bank on account of reason "kindly contact drawer/ drawee Bank and please present again" to State Bank of India, Malout on 05.05.2019, who returned the said cheque unrealized to the respondent on the same day with their memo and the respondent also got information regarding bouncing of the said cheque on the same day. Then plaintiff contacted the defendant, who assured the plaintiff to present cheque again. The cheque was again presented for collection on 22.05.2019, which was again returned back unpaid on account of "Funds Insufficient/ A/c inoperative". Thereafter, legal notice was served upon the petitioner but the petitioner did not make any payment due towards the respondent and then the present suit for recovery was filed.

3. Upon notice of the aforesaid suit, the petitioner/ defendant appeared and contested the suit by filing the written statement on 09.12.2022. The petitioner/ defendant denied having taken any loan from the plaintiff/ respondent and it was alleged that the petitioner/ defendant used to come to the Kiryana shop of the respondent/ plaintiff for purchasing grocery from time to time from the respondent on cash basis. Sometimes the petitioner/ defendant used to borrow goods on credit from the respondent/ plaintiff, but later on the petitioner/ defendant used to make the payment of the credit purchase. At the time of purchasing goods on credit, the

respondent/ plaintiff used to obtain blank signed cheque from the petitioner/ defendant as security against the credit goods. The respondent/ plaintiff has malafidely used the said blank signed cheque of Rs.5,70,000/- for filing the instant suit for recovery.

4. Then as per pleading of the parties, issues were framed and the case was fixed for adducing the evidence by the respective parties. During evidence, on 18.12.2023, the petitioner/ defendant moved an application for directing the respondent/ plaintiff to produce and place on record the balance sheets for the financial years 2014-15 and 2023-24 of proprietorship firm Kundal Lal Kewal Krishan Narang Karyana Marchents, which is ownership of Kewal Krishan (plaintiff/ respondent). The petitioner/ defendant had summoned the returns of the above said firm from the Income Tax Office, Sri Mukhsar Sahib alongwith record of ITR and balance sheets, in petitioner/ defendant's evidence. But the official of the Income Tax Office who was examined as DW1, produced only income tax returns of the above said firm and not the balance sheets.

5. Hence, the application for directing the respondent/ plaintiff to produce and place on record the balance sheets for the financial years 2014-15 and 2023-24 was filed, which was contested by the petitioner/ defendant, by filing reply to the same. However the said application was dismissed vide impugned order dated 26.02.2024. So, the petitioner has knocked the doors of this Court by way of filing the present revision petition.

6. Learned counsel for the revision petitioner has contended that the petitioner/ defendant had summoned the returns of the above said firm

from the Income Tax Office, Sri Mukhsar Sahib alongwith record of ITR and balance sheets in petitioner/ defendant's evidence. But the official of the Income Tax Office, who was examined as DW1, produced only income tax return of the above said firm and not the balance sheets. DW-12 also deposed that they had no balance sheets of the firm. He has contended that thereafter, the petitioner/ defendant had summoned Sh. Ramsjiwan Sharma, who produced the ITRs of the firm of the Income Tax Department and stated that he did not have any record of balance sheets and the same is in possession of the respondent/ plaintiff. He has contended that the trial Court has not appreciated the facts and circumstances of the case and wrongly declined the application of the petitioner/ defendant. Once the petitioner/ defendant has disputed the alleged documents then an opportunity should be granted to the petitioner/ defendant to prove his case by way of getting produced the balance sheets of financial years 2014-15 to 2023-24. He has submitted that these balance sheets are required for proper adjudication of the case. The fact regarding any debt pending towards the petitioner/ defendant can be proved only when the record pertaining to alleged amount will be produced before the trial Court. He has urged that the maintenance of account of the petitioner, if any, can also be proved from the ledger/ account book/ balance sheets.

7. I have heard learned counsel for the petitioner and have gone through the relevant record.

8. It has been specifically mentioned by the trial Court in the impugned order that the defendant was yet to conclude his evidence even

after availing 18 effective opportunities. But instead of concluding his evidence the instant application had been moved. It has also been specifically mentioned therein that during the arguments, the plaintiff stated that they did not keep the balance sheets for more than three years in their custody and the said balance sheets are not in their possession at present. So, taking it into view the trial Court has rightly disposed of the instant application with the observation that an adverse inference will be drawn against the respondent/ plaintiff regarding the same. Moreover, the present suit for recovery of Rs.5,70,000/- is based on cheque No.411910 dated 03.05.2019.

9. Thus, there is no illegality or infirmity in the impugned order and no interference therewith is called for while exercising the revisional jurisdiction. The present revision petition being bereft of any merits stands dismissed.

10. All pending applications, if any, also stand disposed of accordingly.

(SUKHVINDER KAUR)
JUDGE

06.05.2024.
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Whether speaking/ reasoned : Yes/ No
Whether Reportable : Yes/ No