



2024:DHC:8893



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Date of decision: 25th October, 2024***+ **C.R.P. 312/2024, CM APPL. 63122-63123/2024****DHEERAJ TANEJA**

.....Petitioner

Through: Mr. Dhurv Tamta and Mr. Nischay
Dutt, Advocates.

versus

KISHAN DUA

.....Respondent

Through: None

CORAM:**HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA****JUDGMENT (oral)**

1. Revision Petition under Section 115 of the *Code of Civil Procedure, 1908* ('CPC' hereinafter) has been filed for setting aside the Order dated 14.10.2024 vide which the Application under Order 12 Rule 6 CPC filed by the Revisionist (Defendant) for dismissal of the Suit of the Plaintiff /Respondent, was rejected.

2. ***Briefly stated***, the Plaintiff/Respondent has filed a Suit for Recovery of Rs.6,00,000/- under Order 37 CPC on the basis of a dishonoured cheque of Rs.6,00,000/- issued by the Revisionist Defendant. The Defendant Revisionist has submitted that during the evidence the Plaintiff Respondent has deposed as under:-

"I do not know the defendant. I only met him once or twice before filing of the present case. It is correct that I have not given the loan of Rs. 6 lakhs to the defendant. The loan was given by Sanjay Chawla on my asking. The cheque Ex.P-1 has been filled in by me".

Signature Not Verified

Digitally Signed
By: VIKAS AKORA
Signing Date: 18.11.2024
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3. The Revisionist claims that as per the admission of the Plaintiff himself he had not paid any loan to the Defendant and thus, the Suit is liable to be dismissed.
4. The learned District Judge in its Impugned Order referred to Section 2(d) of *Indian Contract Act, 1872* (‘Contract Act’ *hereinafter*) to observe that consideration for a promise can flow from a third party. The Plaintiff had not denied having given the loan of Rs.6,00,000/- to the Defendant but had asserted that the loan on his behalf had been given by the third-party against which the Defendant had issued the cheque in his name, which on presentation got dishonoured.
5. With these observations, the Application under Order 12 Rule 6 CPC was dismissed.
6. Aggrieved by the said Order dated 14.10.2024, the present Revision Petition has been filed.
7. **Submissions Heard.**
8. The Plaintiff though had deposed in his testimony that he had barely met the Defendant once or twice before filing the present case and that he did not know the Defendant but at the same time he stated that the loan of Rs.6,00,000/- was given to the Defendant by one Sanjay Chawla on his asking. Under the Contract Act, while the *principle of Privity of Contract* is accepted. As observed by the learned District Judge, Section 2(d) of *Contract Act* recognizes that the consideration may flow from the third party. There is specific testimony of the Plaintiff that the loan of Rs.6,00,000/ was given by Sanjay Chawla to the Defendant, on his request. The money may have



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been given by the third party but it is evident that the contract was between the Plaintiff and the Defendant. This is further reinforced by the fact that a cheque of Rs.6,00,000/- was given by the Defendant in favour of the Plaintiff.

9. It is a defence taken by the Revisionist-Defendant that his wallet containing signed blank cheques was lost at the office of one Vikram Chauhan or probably during the scuffle that happened outside the office. It is the specific defence of the Revisionist which is required to be proved by him.

10. He had also tried to claim that he had more than Rs. 80 lakhs in his account in the form of FDRs and there was no reason for him to have taken a loan of Rs.6,00,000/-. Again, this is a defence taken by the Revisionist which is required to be proved by cogent evidence.

11. It is evident that there are no admissions which are clear, unambiguous or unequivocal on behalf of the Respondent Plaintiff whereby he has admitted that did not give the loan of Rs.6,00,000/-. Rather, he has deposed that a loan of Rs.6,00,000/- was given to the Defendant by Sanjay Chawla, on his request.

12. The learned District Judge has *rightly dismissed* the Application under Order 12 Rule 6 CPC.

13. There is no infirmity in the Impugned Order and the Revision is hereby dismissed, along with pending Applications.

(NEENA BANSAL KRISHNA)
JUDGE

OCTOBER 25, 2024/rk