



\$~96

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **RSA 200/2024 and CM APPL. 69776/2024**

P SINGH CHIT FUND

.....Appellant

Through: Mr. Parminder Singh in person.

versus

MANISH GUPTA

.....Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

ORDER

%

29.11.2024

CM APPL. 69775/2024 (for exemption)

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

RSA 200/2024 and CM APPL. 69776/2024

3. The instant appeal has arisen out of the judgment dated 06.06.2024 passed by the Court of District Judge-07, West, Tis Hazari Courts, Delhi in RCA DJ No.94/2022 titled as *Manish Gupta v. M/S P. Singh Chit Fund Pvt. Ltd.* Vide the aforementioned judgment, the appeal preferred by the respondent/defendant came to be allowed while setting aside the judgment and decree dated 16.09.2022 passed by the Court of Commercial Judge (West), Tis Hazari Courts, Delhi in Suit No.11586/2016 titled as *P. Singh Chit Fund Pvt. Ltd. v. Manish Gupta*, whereby, the application moved by the respondent/defendant seeking leave to defend was dismissed and the suit of



the appellant/plaintiff filed under Order XXXVII of the CPC was decreed.

4. I have heard learned counsel for the appellant and have perused the record.

5. A perusal of the impugned judgment and decree would indicate that the first Appellate Court, *vide* the impugned judgment and decree, has taken into consideration the legal position as has been stated by the Supreme Court in the case of ***B.L. Kashyap and Sons Limited v. JMS Steels and Power Corporation***¹ and ***State Bank of Hyderabad v. Rabo Bank***², to the effect that under Order XXXVII of CPC, the grant of leave to defend is the rule and denial is an exception.

6. It is seen that the Appellate Court, in terms of paragraph nos. 4.10 and 4.11, has also held that the claim of the appellant/plaintiff seeking recovery of Rs.97,000/- from the respondent/defendant, is *prima facie* based upon an unlawful agreement/chit fund business, which was conducted in blatant violation of the provisions of Chit Funds Act, 1982; and therefore, leave to defend ought not to have been rejected. The aforementioned paragraphs are reproduced here:-

*“ 4.10. Apart from the aforesaid discussion pertaining to the violation of several provisions of Chit Funds Act, 1982, a reference to Section 64 of the Act is also relevant as it bars the jurisdiction of a Civil Court to entertain any suit or proceeding in relation to any dispute touching the management of chit fund business and provides for referring the parties to the dispute to the Registrar for conducting arbitration in case of any such dispute. Reference can be made to the judgment passed by Hon'ble High Court of Delhi in ***Shakuntla Devi and Others Vs. Madadgar Chit Funds Pvt. Ltd.***, RSA No. 29/2001 dated 19.10.2010. The term dispute is defined in Section 64 as a dispute touching the management of a chit business and include a claim made by a foreman for any debt or demand due to him from a subscriber whether such debt or demand is*

¹ 2022 INSC 60

² AIR 2015 SC 3820



admitted or not. In the present case, the case of the respondent/plaintiff falls within the category of the term dispute relating to the chit business provided under Section 64 as the plaintiff who was acting as a foreman is seeking recovery of his debt I demand due to him from the subscriber I defendant I appellant out of chit no. 10 and 13.

4.11. The aforesaid discussion establishes that the claim of the respondent I plaintiff seeking recovery of Rs.97,000/- from the defendant is prima facie based upon an unlawful agreement I chit fund business which was conducted in blatant violation of the provisions of Chit Funds Act, 1982, introduced for the regulation of chit funds business and keeping a tab on the flow of unaccounted money.”

7. The Court, therefore, is of the considered opinion that the first Appellate Court has rightly allowed the appeal and the respondent/defendant has rightly been held entitled to defend the suit as the claim of the appellant/plaintiff involves several triable issues which call for a comprehensive and fair trial before deciding his claim.

8. The Court, therefore, does not find any substantial question of law to have arisen in the instant case.

9. Accordingly, the instant appeal fails and is hereby dismissed along with the pending application.

PURUSHAINDRA KUMAR KAURAV, J

NOVEMBER 29, 2024

Nc/mjo