IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

2025:PHHC:163469

124 RSA-2494-2022 (O&M)
Date of Decision: 19.11.2025

Pratibha Sawhney ...Appellant

Versus

Pradeep Parashar ...Respondent

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Mayank Aggarwal, Advocate, for the appellant

VIKRAM AGGARWAL, J.

This is plaintiff' appeal against the judgment and decree dated 23.03.2022 passed by the Court of District Judge, Gurugram, dismissing the appeal against the judgment and decree dated 05.07.2018 passed by the Court of Civil Judge (Junior Division), Gurugram, vide which the suit of the plaintiff for recovery of Rs.19,60,000/-along with interest, was dismissed.

2. For the sake of convenience and clarity, parties shall be referred to as per their original status.

3. The plaintiff filed a suit for recovery of Rs.19,60,000/- along with interest @ 24% per annum from the date of payment made to the defendant till the date of its actual realization. It was averred that the plaintiff had been

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engaged in the business of sale and purchase of cosmetics under the name and style of M/s Sai Surya Vikas and the defendant was also engaged in a similar business running his proprietorship firm M/s Nandini Marketing. It was further claimed that the defendant had offered the plaintiff a lucrative business plan to start a manufacturing unit of cosmetics and assured to help her in marketing/sale of the products. The plaintiff was also assured by the defendant that she would be appointed as one of the Directors in M/s Natuerella Personal Care Pvt. Ltd. and in good faith, the plaintiff had paid the defendant a sum of Rs.19,60,000/- on several occasions as a personal loan, as detailed in the plaint.

4. It was further claimed that the defendant had also borrowed a sum of Rs.26 lakhs in cash on 12.07.2011 at the instance and directions of one Mr. Ramanand, Bank Manager, Vijay Bank, Railway Road, Gurugran. However, the defendant after having received the said amount, changed his attitude and failed to return the amount, despite demands raised by the plaintiff.

5. Defendant filed his written statement taking preliminary objections regarding maintainability; cause of action; *locus-standi*, limitation; estoppel; mis-joinder and non-joinder of necessary parties and suppression of the true and material facts. On merits, the factum of transfer of Rs.19,60,000/- by the plaintiff to the defendant, was admitted, but the said amount was termed to have been received on account of payment for marketing, salary and

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display charge for the counters managed by the defendant. Receipt of any amount in cash was denied. It was further asserted that the plaintiff had approached the defendant and had conveyed to him that she was running the business of `Megha Brand' in Big Bazar and showed her inclination to launch the products in Mumbai Big Bazar and Mumbai wholesale and retail market. An agreement in this regard was also executed. However, the plaintiff failed to provide marketing staff and delayed the matter on one pretext or the other with the result that the stock was returned by the Big Bazar for want of marketing staff. It was further averred that certain amount was due against the plaintiff as the defendant had made payment of around Rs.15 lakh at the time of receiving the stock. The factum of personal loan was, however, denied.

6. From the pleadings of the parties the following issues were framed:-

1. Whether plaintiff is entitled to a decree for recovery of Rs.19,60,000/- with future interest @ 24% per annum from the date of institution of suit till its realization with costs? OPP
2. Whether the suit is not maintainable in the present form? OPD
3. Whether the plaintiff has no locus standi to file the present suit? OPD
4. Whether the plaintiff has no cause of action to file the present suit? OPD

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5. Whether the plaintiff has concealed the true and material facts from the court? OPD
6. Whether the plaintiff is estopped from filing the present suit? OPD
7. Relief.

7. Parties led their respective evidence.

8. The trial Court dismissed the suit vide judgment and decree dated 05.07.2018. The appeal filed by the plaintiff was also dismissed vide judgment and decree dated 23.03.2022 passed by the first Appellate Court leading to the filing of the instant appeal.

9. I have heard learned counsel for the parties and have also perused the record.

10. Learned counsel for the appellant submits that both Courts failed to appreciate that the defendant had never raised any bills or invoices calling upon the plaintiff to pay any amount due. It is further argued that as a matter of fact, the defence put forth by the defendant regarding taking money for marketing the products of the plaintiff, was not substantiated by leading any evidence. It is also argued that had there been any substance in the defence taken by the defendant as regards the amount received against the business transaction, the defendant ought to have paid some tax in this regard, which he never did. It is further argued that once the defendant had admitted transfer of the amount of Rs.19,60,000/- to the account of the plaintiff, the suit of the plaintiff ought to have been decreed.

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11. I have considered the submissions made by learned counsel for the appellant, but find the same to be devoid of merit.

12. It was found by both Courts that plaintiff had failed to prove on record the payment of Rs.26,00,000/- to the defendant in cash on 12.07.2011. It was further found that the plaintiff had also failed to prove that the amount of Rs.19,60,000/-, was advanced to the defendant as a personal loan. On the basis of the document Ex.D-1 (appointment letter dated 12.05.2010), it was found that vide the said letter, the plaintiff had appointed the defendant for the purposes of marketing of cosmetic products all over India.

13. The first Appellate Court, while affirming the findings recorded by the trial Court, also recorded a finding that if there had been any business dealings between the parties, the plaintiff ought to have come forward with all the true facts with regard to the said business dealings and instead of filing a suit for recovery, she ought to have filed a suit for rendition of accounts.

14. Both Courts, have recorded concurrent findings of facts on the basis of evidence led by the parties. The said findings cannot be said to be suffering from any illegality so as to warrant interference by this Court in the present appeal. Merely because the amount of Rs.19,60,000/- had been transferred from the personal account of plaintiff to that of the defendant, cannot be *ipso-facto* taken a ground to hold that the plaintiff had advanced personal loan to the

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defendant, when no evidence worth the name was produced by the plaintiff to prove that it was a loan transaction and also keeping in view the fact that there were commercial relations between the two sides.

15. In view of the aforementioned facts and circumstances, I do not find any merit in the present appeal and the same is accordingly dismissed.

16. Pending application(s), if any, shall also stand disposed of.

(VIKRAM AGGARWAL)
JUDGE

19.11. 2025
ds

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

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