



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
239 RSA-5863-2017(O&M)
Date of decision: 01.12.2025

Rajinder Kaur

...Appellant(s)

Vs.

State Bank of India

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Deepak Arora, Advocate
for the appellant.

NIDHI GUPTA, J.

The plaintiff is in Second Appeal against concurrent judgments and decrees of the learned Courts below whereby suit filed by the appellant for mandatory injunction directing the defendant to remit the amount of Euro 1871 in plaintiff's Account No.10776207907 State Bank of India Branch Qadian District Gurdaspur, Punjab with interest, has been dismissed.

2. It was the pleaded case of the appellant in the plaint that the plaintiff is the legally wedded wife of Lakhwinder Singh who used to work with German firm by the name of M/s Golo Shipping Reederei Gesel (Germany) (hereinafter referred to as "the Company"). The said Company used to remit the salary of Lakhwinder Singh into the account of the plaintiff. The plaintiff had received the salary of her husband for the months of August and November 2009 but not for September 2009. It was averred



that the Company had remitted the salary of Lakhwinder Singh for September 2009 on 16.10.2009 for a sum of Euro 1871. However, the said amount of salary had not been credited in the account of the plaintiff by the defendant Bank. On enquiry, the plaintiff had received reply from the defendant that vide order dated 24.04.2010, the said amount/salary of Lakhwinder Singh was sent back on 09.12.2009 to the account of the Company. The plaintiff had requested the defendant to credit the said salary into her account, however, to no avail. Hence, present suit was filed on 09.10.2014.

3. The defendant was proceeded against ex parte before the learned Courts below.

4. Upon appraisal of pleadings and oral & documentary evidence adduced by the parties, the learned trial Court dismissed the suit of the plaintiff vide ex parte judgment and decree dated 01.11.2016. The appeal filed by the plaintiff was dismissed by the learned Additional District Judge, Gurdaspur vide ex parte judgment and decree dated 17.02.2017. Hence, present Second Appeal by the plaintiff.

5. It is inter alia submitted by learned counsel for the appellant that the judgments and decrees of the learned Courts below are on the face of it void, illegal, against law and facts and are liable to be set aside and suit of the plaintiff is liable to be decreed with costs. It is submitted that the learned Courts below have failed to appreciate that admittedly the



Company had remitted salary of Lakhwinder Singh for the months of August 2009 as well as November 2009, which was received in the account of the plaintiff as evident from Passbook of the plaintiff (Ex.P1). However, there is no logic to the explanation given by the respondent that salary of Lakhwinder Singh was remitted back in the account of the Company on 09.12.2009. It is submitted that even no proof has been produced by the defendant to show that the said amount of Euro 1871 was indeed returned back by the defendant-Bank to the Company on 09.12.2009. It is reiterated that admittedly, the said amount had been received but the same had been subsequently returned to the remitting Bank on 09.12.2009 for no apparent reason. Even no proof of the same was produced by the defendant-Bank. Clearly, there was some “hanky-panky” on part of the defendant in not crediting the said amount in the account of the plaintiff and sending the same back to the Company or their banker as mentioned in the letter dated 24.04.2010. It is contended that it was for the defendant to trace the amount on their own level and to credit the aforesaid amount in the account of the plaintiff. It is submitted that the defendant could not escape their liability to credit Euro 1871 in the account of the plaintiff admittedly received by them as mentioned in their letter dated 24.04.2010; and sending the same back to the Company for no fault on part of the plaintiff. Learned counsel accordingly prays for setting aside of the impugned judgments and decrees.



6. No other argument is made on behalf of the appellant.
7. I have heard learned counsel and perused the case file in detail. I find no merit in the submissions advanced on behalf of the appellant.
8. The plaintiff has produced letter dated 24.04.2010 (Mark A) written by the defendant-Bank to the plaintiff to the effect that the amount of Euro 1871 was returned by the Defendant-Bank to Deutsche Bank, Frankfurt i.e. the Bank of the Company. It is clear from Mark A that amount in question is not with Defendant-Bank as same has been returned. Thereafter, vide letter dated 24.03.2011 (Mark B), the Company had duly informed Lakhwinder Singh in respect of this fact. However, there is nothing on record to show that any follow-up action was taken by Lakhwinder Singh.
9. Thus, from the documents produced by the plaintiff herself (Mark A), it is proved that the amount of Euro 1871 was duly returned by the Defendant-Bank to Deutsche Bank/ Bank of the Company. Further, vide letter dated 24.03.2011 (Mark B), the said information was also given to Lakhwinder Singh by the employer-Company. The plaintiff failed to produce any correspondence between Lakhwinder Singh and the Company after receipt of letter dated 24.03.2011 (Mark B) by Lakhwinder Singh. Thus, plaintiff failed to prove that said amount was still lying with Defendant-Bank.



10. Perusal of letter (Mark A) clearly reveals that salary of Lakhwinder Singh received by Defendant-Bank was returned by them to Deutsche Bank, Frankfurt. Even Company of Lakhwinder Singh has informed him that they had asked their Banker to investigate. But no information thereafter has been placed on record by Lakhwinder Singh/plaintiff. Therefore, the plaintiff cannot claim from Defendant-Bank as plaintiff failed to prove that the amount in question is still lying with Defendant-Bank. It was thus, incumbent upon plaintiff to first prove that salary of September 2009 of Lakhwinder Singh lying with Defendant-Bank. Rather it is clear from letter (Mark A) that amount in question is not with Defendant-Bank as same has been returned to the Banker of Lakhwinder's Company. No letter/document has been produced about any correspondence between Lakhwinder Singh and the Company after receipt of letter (Mark B). Otherwise also, to such transactions, the Banks are only agents of their customers. Therefore, it stands established that plaintiff failed to prove that amount in question is still lying with Defendant-Bank.

11. Relevant findings of the learned trial Court as contained in Para 8 of the judgment dated 01.11.2016, read as follows:-

"8. Thus, the perusal of mark A clearly reveals that the salary of Lakhwinder Singh received by defendant bank has been returned back to Deutsche Bank, Frankfurt. Even the company of Lakhwinder Singh has informed him that they had asked



their banker to investigation the matter. But no reference thereafter has been produced on record by Lakhwinder Singh that what information has been received by banker of Lakhwinder Singh's company that whether they had received back the said amount or not. It was incumbent upon the plaintiff to prove first that the salary for the month of September, 2009 of Lakhwinder Singh has been received by defendant bank. But it is clear from letter Mark A that the amount in question is not with the defendant bank as the same has been returned to the banker of Lakhwinder Singh's company, thus the plaintiff cannot claim this amount from the defendant bank. No letter/document has been produced about the correspondence between Lakhwinder Singh and his company after the receipt of letter Mark B. Thus it stands established that the plaintiff has failed to prove that the amount in question is still lying with the defendant bank, therefore, no mandatory injunction can be granted in her favour."

12. Learned counsel for the appellant is unable to dispute or controvert the aforesaid facts and findings.
13. In view of the above, present appeal is **dismissed**.
14. Pending application(s) if any also stand(s) disposed of.

01.12.2025
Sunena

(Nidhi Gupta)
Judge

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