**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

(102)

**RSA NO:- 2370-1995 (O&M)
Reserved on: 18.02.2026
Pronounced on: 25.02.2026
Uploaded on: .02.2026**

Prem Singh **….Appellant**

Versus

Kulwinder Kaur and others **….Respondents**

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Argued by: Ms. Dhivya Jerath, Advocate
for the appellant.

Mr. Gurdial Singh Jaswal, Advocate
for the respondent no 1.

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VIRINDER AGGARWAL, J.

1. The appellant-defendant No.1 (hereinafter referred to as "the appellant"), aggrieved by the judgment and decree dated 29.03.1995 passed by the learned Additional District Judge, Hoshiarpur, whereby the appeal preferred by him was dismissed and the judgment and decree dated 25.11.1991 passed by the learned Sub Judge 1st Class, Hoshiarpur decreeing the suit of respondent No.1-plaintiff was affirmed, has filed the present Regular Second Appeal.

BACKGROUND FACTS

2. The case of the Respondent no1-plaintiff, as set out in the plaint, is that in the year 1982 defendant No.1 approached her and represented himself to be the Manager and partner of "Imperial Savings" and induced her to invest money in the said concern. Acting upon such representation, the plaintiff deposited a sum of Rs. 15,000/- with defendant No.1, who issued a receipt on behalf of

"Imperial Savings" and assured the plaintiff that the amount had been duly deposited in fixed deposit and would carry interest. The plaintiff made the deposit in good faith relying upon the representations and assurances given by defendant No.1 in his capacity as representative of the said concern. It was further pleaded that when the plaintiff approached the defendant no.1 for repayment, defendant No.1 avoided payment on one pretext or the other and ultimately refused to return the amount. Consequently, the plaintiff claimed that she was entitled to recover the principal sum of Rs. 15,000/- along with interest accrued thereon, totaling Rs. 25,000/-, from the defendant no. 1.

3. The notice of the suit was issued to the defendants. The suit was contested by appellant-defendant No.1 only. Defendant No.3, having been duly served, was proceeded against ex parte vide order dated 28.03.1988. Subsequently, the learned Trial Court, vide order dated 25.10.1989, directed that defendants No.2 to 4 be summoned through publication in the newspaper 'Chardikala' on deposit of process fee and publication charges, and publication was duly effected. The case of appellant-defendant no.1 is that Imperial Savings (India) Ltd. was a duly registered company having its Head Office at New Delhi and a branch office at Hoshiarpur, and that he was merely working there as an employee/Assistant Development Officer. He pleaded that the amount in question was deposited by the plaintiff with the company and that the receipt was issued by him in his official capacity on behalf of the company, and not in his personal capacity. He denied having misrepresented himself or having incurred any individual liability, and maintained that if any amount was payable, the responsibility, if at all, was that of the company alone and not his personal responsibility. The suit was also contested on the ground of limitation and it lacked locus standi as there is no cause of action.

4. Replication was filed. The plaintiff reiterated her claim and controverted the contentions of the appellant. On the basis of pleadings, the learned Trial Court framed the following issues:

> *1. Whether the plaintiff is entitled for the recovery of Rs. 25,000/- as alleged? OPP.*
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> *2. Whether the suit is barred by limitation? OPD*
>
> *3. Whether the plaintiff has got no-locus-standi to file this suit? OPD.*
>
> *4. Whether the suit as laid is not maintainable ?OPD*
>
> *5. Whether the suit cannot be brought against defendant No. 1 in his inidvidual capacity? OPD*
>
> *6. Whether the suit is bad for non-joinder and mis-joinder of the necessary parties? OPD.*
>
> *7. Whether this court has got no jurisdiction to hear and try the suit? OPD.*
>
> *8. Whether the plaintiff is estopped to bring and file this suit against defendant no. 1 in his individual capacity? OPD.*
>
> *9. Whether the suit is barred under the provisions as laid down in the Company's law? OPD*
>
> *10. Relief.*

5. The plaintiff, in support of her case, stepped into the witness box and examined herself and led oral as well as documentary evidence. She proved on record the receipt issued in respect of the deposit made by her with Imperial Savings and deposed regarding the representations made by defendant No.1 and the failure of the defendants to repay the deposited amount despite demand. PW-2 Lakhi Ram, PW-3 Sh. R.K. Sharma and PW-4 Suresh were examined by the plaintiff in support of her case. The plaintiff relied upon the said receipt and

the surrounding circumstances to establish that the amount had been received by defendant No.1 in the name of the said concern and that she was entitled to its recovery along with interest.

6. On the other hand, the contesting defendant No.1 appeared and led evidence in defence to the effect that he was merely an employee of Imperial Savings (India) Ltd. and had issued the receipt in his official capacity and had no personal liability. He also relied upon certain documents like appointment letter and identity card to show his status as an employee of the company.

7. Both parties were afforded a full and fair opportunity to adduce evidence in support of their respective claims. Upon a detailed appraisal of the pleadings and evidence, the learned trial Court decided the issues and, after considering the testimony of the plaintiff and the receipt relied upon by her, recorded a firm finding that appellant-defendant No.1 had in fact received a sum of Rs. 15,000/- from the plaintiff and had issued the receipt in token thereof. The Court observed that defendant No.1 had taken the plea that he acted merely as an employee of Imperial Savings (India) Ltd., but he failed to produce any reliable and legally admissible record from the said company to establish his appointment, authority, or that the amount so collected had been duly deposited with the company. The documents produced by him were not duly proved and did not inspire confidence. The trial Court further held that the plaintiff had successfully proved the deposit and the failure of defendant No.1 to repay the same despite demand, thereby entitling her to recovery of the principal amount along with interest claimed in the suit.

8. The learned trial Court also recorded a finding that defendant No.1 had projected the existence of an office of Imperial Savings at Hoshiarpur, but the evidence on record showed that the said office was not proved to be a

genuine and authorized branch of Imperial Savings (India) Ltd. (defendant no. 3). The plaintiff established that the office was subsequently found closed and no authentic particulars of the company's functioning at the said place were forthcoming. The trial Court thus inferred that defendant No.1 had used the said fictitious office to induce the plaintiff and receive the deposit, which further strengthened the plaintiff's case regarding the personal liability of defendant No.1. Consequently, the suit was partly decreed in favour of the plaintiff and against defendant No.1 for recovery of Rs. 25,000/- (Rs 15,000/- being the principal amount and Rs 10,000 as interest at the rate of 15% per annum), along with future interest on the principal amount of Rs. 15,000 at the rate of 15 percent per annum from the date of the institution of suit till the date of decree and at the rate of 6 percent per annum thereafter till recovery.

9. Aggrieved by the judgment and decree passed by the learned Trial Court, the appellant-defendant No.1 preferred an appeal before the learned Additional District Judge, Hoshiarpur. The learned First Appellate Court, upon re-appraisal of the entire evidence on record, affirmed the findings of the learned Trial Court. It was held that the appellant had admittedly received the amount from the plaintiff and issued the receipt, but failed to prove by reliable and admissible evidence that he was duly authorized by Imperial Savings (India) Ltd. to receive such deposits or that the amount had been deposited with the said company. The documents relied upon by the appellant in support of his plea of employment were not found to be duly proved and did not establish his authority. The learned First Appellate Court, therefore, held that the appellant was personally liable to repay the amount and, finding no merit in the appeal, dismissed the same and affirmed the judgment and decree passed by the learned Trial Court.

10. Disputing the determinations of the learned Additional District Judge, Appellant filed the present appeal. Upon its admission, notices were issued, following which the respondent, through their counsel, appeared and opposed the appeal. The records of the courts below are accessible on DMS for thorough examination and adjudication.

CONTENTIONS

11. Learned counsel appearing for the appellant-defendant No.1 contended that the learned Courts below gravely erred in holding him personally liable for the amount in question, despite the case that the receipt was issued by him on behalf of Imperial Savings (India) Ltd. It is submitted that the evidence on record clearly establishes that he was functioning only in his capacity as an employee/Assistant Development Officer of the said company and had not received the amount in his individual capacity. It is further contended that once the deposit was made with the company and the receipt was issued in its name, no personal liability could have been fastened upon him.

12. It is further argued that the learned Courts below failed to properly appreciate the defence and the material on record showing that Imperial Savings (India) Ltd. was a registered company having its Head Office at New Delhi and a branch office at Hoshiarpur, and that the appellant was acting only in the course of his employment. It is contended that in the absence of any cogent evidence to prove misappropriation or personal retention of the amount by the appellant, the finding regarding his personal liability is unsustainable. On these premises, it is prayed that the impugned judgment and decree passed by the learned Courts below fastening liability upon the appellant are liable to be set aside. He further contended that both the courts below has failed to notice that suit is hopelessly barred by limitation and wrongly held to be within limitation.

13. Learned counsel for the respondent No. 1- plaintiff contends that the judgment and decree of the courts below do not suffer from illegality or perversity thus it does not warrant interference by this Court. Learned Counsel further contends that both the Courts below have rightly appreciated the evidence and correctly held appellant personally liable, as it stood duly proved on record that he had himself received the amount of Rs. 15,000/- from the plaintiff and issued the receipt. It is submitted that the appellant failed to produce any reliable or admissible evidence to establish that he was duly authorized by Imperial Savings (India) Ltd. to receive such deposits or that the amount was ever deposited with the said company. It is further contended that the documents relied upon by the appellant were not proved in accordance with law and did not establish any valid authority.

14. It is further argued that the evidence on record clearly established that the appellant had induced the plaintiff to deposit the amount and had operated from an office which was not proved to be company concerned, and no genuine office or responsible official of the company was traceable. In these circumstances, the learned trial Court rightly concluded that the appellant had failed to discharge the burden of proving his plea and was personally liable to refund the amount.

OBSERVATIONS AND FINDINGS

15. I have heard learned counsel for the parties and considered their submissions in conjunction with the pleadings, evidence, and the findings recorded by the courts below. The entire record has been analyzed to determine whether the impugned judgment and decree suffer from any legal infirmity or error justifying interference by this Court.

16. As regards the scope of second appeal, it is now a settled proposition

of law that in Punjab and Haryana, second appeals preferred are to be treated as appeals under Section 41 of the Punjab Courts Act, 1918 and not under Section 100 CPC. Reference in this regard can be made to the judgment of the Supreme Court in the case of ***Pankajakshi (Dead) through LRs and others V/s Chandrika and others, (2016)6 SCC 157***, followed by the judgments in the case of ***Kirodi (since deceased) through his LR V/s Ram Parkash and others, (2019) 11 SCC 317*** and ***Satender and others V/s Saroj and others, 2022(12) Scale 92***. Relying upon the law laid down in the aforesaid judgments, no question of law is required to be framed.

17. Insofar as per respondent No. 2 to 4 are concerned, this Court vide order dated 06.02.1996 recorded that " *states that respondents 2 to 4 are proforma respondents and need not be served*". Consequently the service upon them was dispensed with. Also, This Court is cognizant of the fact that no formal order appears to have been passed by the learned Trial Court proceeding defendants No.2 and 4 ex parte after publication was effected. Be that as it may, since the learned Trial Court ultimately decreed the suit only against contesting appellant-defendant No.1 only and dismissed the suit qua the remaining defendants, and this Court is also affirming the decree only against appellant-defendant No.1, no prejudice can be said to have been caused to defendants no 2 to 4. In these circumstances, no ground is made out to remand the matter to the learned Trial Court on this count, particularly when no decree has been passed against the said defendants, and remand would serve no useful purpose.

18. Upon a perusal of the record, this Court finds that the concurrent findings of the Trial Court and the Additional District Judge are rooted in a sound appreciation of the documentary and oral evidence. The core of the appellant's defense rested on his status as a mere employee of "Imperial

Savings" (India) Ltd.. However, as rightly observed by the courts below, the appellant failed to produce any cogent evidence to substantiate this claim. The "appointment letter" (Ex. DW4/B) and "identity card" (Ex. DW4/A) placed on record were conspicuously devoid of the official company seal or stamp. Furthermore, the appellant failed to lead any official record from the company's registered office to prove he was a duly appointed officer. This Court agrees with the learned Additional District Judge that such documents, produced at a late stage without requisite verification, appear to be "manoeuvred" for the purpose of the litigation.

19. The evidence further reveals a sophisticated "net" spread by the appellant and his co-conspirator/associate, Yudhvir Singh Bagga, to defraud innocent persons. The Trial Court correctly highlighted that while the company might have been registered in Delhi, the specific "branches" in Hoshiarpur and Patiala were fictitious entities. There is no material on record to show any banking nexus between these regional offices and the registered company-defendent no. 3. This finding is bolstered by the testimonies of Rajinder Pal (PW2), Pargat Singh (PW3), and Ashok (PW4), all of whom corroborated a consistent pattern of fraud perpetrated by the appellant under the same guise. The fact that the purported offices were found closed when summons were issued further confirms that these were "fictitious offices" established solely to facilitate the misappropriation of funds.

Jurisdiction of Civil Court

20. The objection regarding lack of jurisdiction of the civil court is devoid of merit. The present suit was one for recovery of money of Rs. 25,000/- based on civil liability.The mere fact that some of the defendants are companies does

not ipso facto oust the jurisdiction of the civil court. The bar contained in the Companies Act, 1956 applies only to such matters which are specifically triable by the National Company Law Tribunal, and since the Tribunal is not empowered to adjudicate upon ordinary money recovery claims, the jurisdiction of the civil court remains unaffected and the present suit was, therefore, maintainable.

Limitation

21. Regarding the plea of limitation, this Court finds that the suit is maintainable on two distinct legal grounds. Firstly, the transaction between the parties was admittedly one of 'Banker and Customer,' where the sum was placed as a fixed deposit. As per Article 22 of the Schedule to the Limitation Act, 1963, in cases of deposits, the period of limitation begins to run only when a formal demand for repayment is made. Since the respondent no.1-plaintiff made the demand in 1986 and filed the suit on 16.12.1987, the action is well within the prescribed three-year period. Secondly, as rightly contended by the respondent no. 1-plaintiff, the entire transaction was steeped in fraud. The appellant misrepresented his authority and the existence of a functional branch at Hoshiarpur to induce the respondent no. 1-plaintiff to part with her money. Under Section 17 of the Limitation Act, where a suit is based upon the fraud of the defendant, the limitation period commences only when the fraud is discovered. The respondent no. 1-plaintiff discovered the fictitious nature of the office and the appellant's deceit only in 1986 when appellant refused repayment and told that he has left the respondent company. Therefore, whether viewed through the lens of a 'deposit' under Article 22 or 'discovery of fraud' under Section 17, the suit is clearly within limitation, and the appellant’s plea to the contrary is meritless

CONCLUSION

22. In view of the detailed discussion above, this Court finds no reason to interfere with the concurrent findings recorded by both the learned Trial Court and the Additional District Judge. The evidence unequivocally establishes that the appellant orchestrated a fraudulent scheme by representing a fictitious branch of "Imperial Savings" to induce the plaintiff into depositing her savings. Having failed to prove a legitimate employment status or a valid deposit of the funds into a corporate account, the appellant's attempt to shield himself behind a non-existent corporate entity must fail. The lower courts correctly appreciated the testimonies of other defrauded witnesses and rightly dismissed the appellant’s technical objections regarding limitation and liability.

23. Consequently, the judgment and decree of Sub Judge, 1st class, Hoshiarpur dated 25.11.1991 and Additional District Judge, Hoshiarpur 29.03.1995 are hereby affirmed. The appeal, being devoid of any merit, is **dismissed**.

24. Since the main case has been decided, pending miscellaneous application(s), if any, also stands disposed of.

(VIRINDER AGGARWAL)
JUDGE

25.02.2026
Poonam

(i) Whether speaking/reasoned : Yes/No
(ii) Whether reportable : Yes/No