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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of decision: 7th May, 2026*

\+ **RFA 174/2018**

STANDARD CHARTERED BANK .....Appellant
Through: Mr. Sanjay Gupta, Mr. Ateev Mathur and Mr. Amol Sharma, Advocates

versus

SEEMA OVERSEAS .....Respondent
Through: Mr. Tanmaya Mehta and Mr. Aryan Bhardwaj, Advocates *(Through VC)*

CORAM:
HON'BLE MR. JUSTICE AMIT BANSAL

AMIT BANSAL, J. (Oral)

1. The present appeal has been filed by the appellant (defendant in the suit) seeking setting aside of the impugned judgment and decree dated 24th November, 2017, as corrected on 6th January, 2018, passed by the Additional District Judge-03, Patiala House Court, New Delhi in the suit bearing C.S. No.57502/2016.

2. The plaintiff had dealings with the defendant bank in relation to foreign exchange transactions. On 2nd March, 2009, the plaintiff created a fixed deposit of Rs.1.30 crores with the appellant bank. The fixed deposit was due to mature on 2nd July 2009.

3. It is the contention of the defendant bank that the aforesaid fixed

deposit was created as collateral security/margin money in relation to a forward contract transaction amounting to USD 5 Million. Accordingly, a concluded forward contract dated 5th March, 2009, had come into existence between the parties. On account of losses suffered in the said transaction, a liability to the extent of Rs.1,07,37,500/- had accrued upon the plaintiff. Merge w above

4. The stand of the plaintiff, however, was that no concluded forward contract dated 5th March, 2009, had ever been executed between the parties and, therefore, the appellant/defendant had no authority to recover or deduct the aforesaid amount from the fixed deposit.

5. In the aforesaid background, the plaintiff had filed the aforesaid suit claiming the following reliefs:

> A) Pass a decree for Declaration thereby declaring that no 'Forward Contract' dt. 05.03.2009 was concluded or executed in writing between the plaintiff and defendant;
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> B) Pass a decree for a Permanent Injunction restraining the defendant, its agents, servants, attorneys, representative, etc. from taking any coercive steps for recovery of the alleged amount of Rs.

1,07,37,500/- in respect of the alleged 'Forward Contract' dt. 05.03.2009, from the plaintiff;

C) Pass a decree for a Permanent Injunction restraining the defendant, its agents, servants, attorneys, representative, etc. from deducting the alleged amount of Rs. 1,07,37,500/- in respect of the alleged 'Forward Contract' dt. 05.03.2009, from the Fixed Deposit of the plaintiff with the defendant bank bearing No. 52031038693;

D) Pass any other further order(s) / relief(s) which this Hon'ble Court may deem just fit and proper in the facts and circumstances of the case may also kindly be passed in favour of the plaintiff.

6. The following issues were framed in the suit on 10th March 2010, subsequently modified on 7th February, 2011.

> *"__ISSUES-__*
> *1. Whether there was a concluded forward contract dated 05.03.2009 between the parties? OPP.*
>
> *2. Whether the plaintiff is entitled to a decree of permanent injunction restraining the defendant from deducting the alleged amount of Rs.1,07,37,500/- in respect of the alleged Forward Contract dated 05.03.2009, from the fixed deposit of the plaintiff? OPP.*
>
> *3. Whether the suit has been properly valued for the purposes of court fee and jurisdiction? OPP.*
>
> *4. Whether the suit is maintainable in the present form? OPD*
>
> *5. Relief.*
>
> *6. Whether the plaintiff executed an agreement dated 10.06.2008 as alleged in para 3 of the written statement? OPD."*

7. In terms of the impugned judgment dated 24th November 2017, the

Trial Court decreed the aforesaid suit in favour of the plaintiff, thereby restraining the defendant from deducting the amount of Rs.1,07,37,500/- in respect of the alleged Forward Contract dated 5th March 2009, from the fixed deposit of the plaintiff. Further, the defendant bank was directed to pay compound interest @ 9% on the said FDR of Rs. 1,30,00,000/- from the date of maturity of FDR initially made, *i.e.* from 2nd July 2009 till the date of actual payment. The said judgment was corrected on 6th January 2018, on an application filed by the respondent/plaintiff before the Trial Court, to record the correct amount of FDR as Rs.1,30,00,000/- instead of Rs. 1,30,000/-.

8. Aggrieved by the aforesaid impugned judgment, the defendant has preferred the present appeal.

9. On 16th February 2018, the impugned judgment was stayed by this Court, subject to the appellant depositing the entire amount in the Fixed Deposit dated 2nd March 2009, with the Registrar General of this Court.

10. *Vide* order dated 23rd April 2018, it was recorded that the aforesaid amount has been deposited by the appellant bank with the Registry in a fixed deposit.

11. The appeal was admitted *vide* order dated 25th July 2018.

12. Mr. Sanjay Gupta, counsel appearing on behalf of the appellant/defendant, has made the following submissions:

12.1. Though the plaintiff sought to restrain the adjustment/recovery of Rs.1,07,37,500/- from the fixed deposit of Rs.1.30 crores, the suit was valued only at Rs.20,10,000/- and court fee of Rs.22,000/- was paid. The plaintiff was, in effect, seeking protection of a monetary claim of Rs.1,07,37,500/- and was therefore liable to pay ad valorem court fee on the said amount. Despite a specific objection raised by the appellant in its written statement with regard to the insufficiency of the court fee, the Trial Court has not returned any finding thereon.

12.2. The Trial Court has unilaterally changed the onus in respect of issue no.1 from that of the plaintiff to the defendant by holding that it was a clerical mistake. He submits that the arguments were advanced on behalf of the parties on the basis that the onus to prove issue no.1 was on the plaintiff. However, in the impugned judgment, the onus has been changed to that on the defendant.

12.3. The Trial Court erred in ignoring the evidence led on behalf of the defendant on the ground that the witness produced by the appellant bank had not placed on record any authorisation letter empowering him to depose on behalf of the bank. The witness examined on behalf of the defendant was an officer of the bank and was fully conversant with the facts and records of the case.

12.4. The suit instituted by the plaintiff was a suit for declaration and permanent injunction and no relief for recovery of any monetary amount was sought. No issue was framed by the Trial Court with regard to the entitlement of interest, much less compound interest. Therefore, in the absence of specific prayer or issue in relation to interest, the Trial Court could not have granted compound interest while passing the impugned judgment.

13. Mr. Tanmaya Mehta, counsel appearing on behalf of the respondent/plaintiff, has made the following submissions:

13.1. The plaintiff had valued the suit at Rs. 20,10,000/-, on which appropriate amount of ad valorem court fee of Rs. 21,995/- has been paid.

13.2. Issue no.1, as framed, the onus had to be on the defendant to prove the same. The plaintiff was asserting that there was no forward contract, and hence could not have proved the issue in the negative. In any event, it is submitted that the plaintiff had also led evidence in respect of issue no.1.

13.3. The witness who had deposed on behalf of the defendant bank had admittedly failed to produce any authorisation letter empowering him to make such a deposition.

13.4. The fixed deposit was lying with the appellant bank since March, 2009 and the plaintiff was deprived of the benefit which would ordinarily have accrued on the said deposit upon maturity. Had the said deposit been permitted to mature, the amount would itself have earned compound interest. Hence, the Trial Court was justified in awarding compound interest at the rate of 9% per annum in exercise of the inherent powers of the Court.

14. I have gone through the findings in the impugned judgment.

15. The findings in the impugned judgment *qua* issue no.3 relating to court fee are given at paragraphs 34 and 35 of the judgment. The said paragraphs are set out below:

> *"34. As far as jurisdiction is concerned, both the parties are residents of Delhi, defendant Bank having office at Connaught Place. All the transactions took place in Delhi Hence, this Court has territorial jurisdiction.*
>
> *35. As far as Court fee is concerned, ad voleram Court fee has already been paid."*

16. A perusal of the aforesaid findings would show that the Trial Court has made an observation with regard to the territorial jurisdiction of the Court. However, there was no dispute raised by either party with regard to territorial jurisdiction.

17. Beyond the aforesaid observation, there is no discussion whatsoever with regard to the objection raised by the appellant/defendant, with regard to or the sufficiency of the court fee paid by the plaintiff, taking into account the nature of the reliefs claimed.

18. The findings in the impugned judgment *qua* issue no.1 begin from paragraph 21 of the impugned judgment. Paragraph 21 of the said judgment is set out below:

> *"21. **In the present case, issue no.1 was reframed on 07.02.2011 wherein it is mentioned that onus of proof is on plaintiff. However, it appears to be a clerical mistake as it is the case of the defendant that there was a concluded forward contract dated 05.03.2009 between the parties. Hence, the onus of proof was on defendant.** However, during the trial both the parties were aware of this fact. Defendant Bank was aware that it is Bank which is claiming a concluded forward contract dated 05.03.2009 and hence burden was on him to prove the same."*
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> [emphasis supplied]

19. The entire findings given by the Trial Court on issue no.1 are premised on the evidence led by the appellant/defendant. There is no reference whatsoever to any evidence led on behalf of the plaintiff.

20. After analysing the evidence led on behalf of the defendant bank, the Trial Court came to the conclusion that the defendant bank had failed to prove the said issue. Paragraph 32 of the impugned judgment is set out below:

> *"32. In view of the above, defendant failed to prove that there was any forward contract between the parties dated 05.03.2009, hence the issue is answered in favour of the plaintiff and against the defendant."*

21. In my considered view, the Trial Court could not have unilaterally changed the onus of proof in respect of issue no.1. Even if the Trial Court was of the view that the onus of proving the said issue had wrongly been

thrust upon the plaintiff, the Trial Court should have given an opportunity to the defendant to rebut the same. The parties cannot be taken by surprise in the final judgment in a manner as has been done in the present case.

22. To be noted, there was no application moved, at any point of time, by the respondent/plaintiff for amendment of the issues requiring the onus to be shifted on the appellant/defendant.

23. In my considered view, this finding is completely in violation of principles of fair play, which are enshrined under the Code of Civil Procedure, 1908.

24. The findings of the Trial Court, with regard to the competence of the witness who had appeared on behalf of the appellant bank, are set out below:

> *"22. **In order to prove oral concluded forward contract dated 05.03.2009 defendant Bank produced before the Court one of its employees namely Shri Pankaj Walia as witness. However, he appeared before the Court to depose without any authorisation from the Bank. In the cross-examination, when it was put to him whether he has any Board resolution authorising him on behalf of the defendant company, his answer was in negative.** Along with his evidence by way of affidavit, certain emails exchanged between the parties have been placed on record. However, Section 65 B Certificate is not filed along with those email correspondences, hence they cannot be looked into for any purpose."*
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> [emphasis supplied]

25. The aforesaid observations are completely erroneous. There is no requirement in the Evidence Act or any other law that a witness deposing on behalf of a corporate entity/bank is required to produce an authorisation. An officer of a company or bank who is acquainted with the facts of the case and has access to the records is competent to appear and depose on behalf of such entity.

26. A perusal of the plaint shows that the suit was instituted by the plaintiff seeking relief of declaration and permanent injunction. The Trial Court proceeded to award compound interest at rate of 9% per annum from the date of maturity of the fixed deposit till the date of actual payment, in favour of the plaintiff without giving any reasoning or justification. The observation of the Trial Court in this regard is set out below:

> *"39. Further, the amount of Rs. 1,30,000/- is lying in the form of FDR with defendant Bank since March, 2009. Plaintiff had not been able to utilise the said amount due to the present dispute between the parties. The said FDR was made till 02.07.2009. **In the circumstances, it is hereby directed that the Bank shall pay compound interest @ 9% on the said FDR of Rs. 1,30,000/- from the date of maturity of FDR initially made, i.e. from 02.07.2009 till date of actual payment**."*
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> [emphasis supplied]

27. In light of the discussion above, this Court is of the opinion that the impugned judgment has to be set aside and the matter has to be remanded back to the Trial Court for a *de novo* adjudication.

28. Counsel for the parties are *ad idem* that no fresh evidence is required to be led on behalf of the parties and the Trial Court will take up the matter at the stage of final hearing.

29. Accordingly, the present appeal is disposed of with the following directions:

i. The impugned judgment and decree dated 24th November, 2017, as corrected *vide* order dated 6th January, 2018, are set aside.

ii. The matter is remanded back to the Trial Court for a *de novo* adjudication on the basis of evidence that is already on record.

iii. The Trial Court would decide the matter afresh without being influenced by the observations made hereinabove.

iv. The parties shall appear before the Trial Court on 28th May, 2026.

v. Considering that the suit was filed as far back as 2009, the Trial Court is requested to decide the suit in an expeditious manner, preferably within four (4) months from the date of remand.

30. The Fixed Deposit made by the appellant/defendant before this Court pursuant to the order passed by this Court on 16th February, 2018, shall continue to remain in this Court, subject to orders/judgment that may be passed by the Trial Court.

AMIT BANSAL, J

MAY 7, 2026

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