

HIGH COURT OF PUNJAB AND HARYANA
Coram: Justice Karamjit Singh
Civil Revision No. 7145 of 2023(O&M)
Date of Decision: 29.11.2023

Lekh Ram ...Petitioner

Versus

State Bank Of India ...Respondent

Subject:

The petitioner seeks to set aside the order passed by the Court of Addl. Civil Judge (Sr. Divn.), Dabwali, District Sirsa, which dismissed his application to summon the Branch Manager of respondent Bank along with relevant records in a suit for recovery of Rs. 1,68,936/-.

Headnotes:

Civil Revision – Setting aside of order – Petitioner seeks to set aside the order of the trial Court dismissing the application to summon the Branch Manager of the respondent Bank along with relevant records – Dispute arises from the petitioner's credit facility and non-payment of insurance premium – Trial Court's dismissal of the application found erroneous – Petitioner allowed to summon the concerned Bank official along with specific documents in the interest of justice – No notice required to be issued to the respondent at this stage. [Para 1-9]

Referred Cases: Not mentioned.

KARAMJIT SINGH, J.

1. The present civil revision petition has been filed by the petitioner/ defendant seeking setting aside of order dated 04.11.2023 (Annexure P-7) passed by the Court of Addl. Civil Judge (Sr.Divn.), Dabwali, District Sirsa whereby an application (Annexure P-5) filed by the petitioner to summon the Branch Manager of respondent Bank along with relevant record has been dismissed.
2. The brief facts of the case are that petitioner availed credit facility worth Rs.3,00,000/- under KCC Scheme from respondent Bank in 2014. As per respondent Bank, the petitioner defaulted in making repayment of the concerned amount and consequently suit for recovery of Rs.1,68,936/- has been filed by the said Bank against the petitioner. The suit is being contested

by the petitioner, who filed written statement and thereafter issues are also framed and respondent Bank concluded his evidence and when the case was fixed for evidence of petitioner, application (Annexure P-5) was moved on his behalf to summon the concerned branch Manager of the Bank along with certain documents which are detailed in the said application. However, the learned trial Court declined the said application vide impugned order (Annexure P-7) on the ground that the said documents could have been proved by putting the same to the concerned branch Manager of the Bank who appeared in the witness box as PW2 and further the petitioner has failed to clarify and explain as to how the said summoned documents are relevant for proper adjudication of the suit.

3. The petitioner being aggrieved by order (Annexure P-7) has filed the present petition.
4. The counsel for the petitioner submits that there is no doubt that petitioner availed credit facility from respondent Bank. It is further submitted that petitioner is regularly making payment of interest and is not defaulter as he never violated the terms and conditions of the credit facility. It is further submitted that the said credit facility also included life insurance of the petitioner and annual premium was Rs. 2764/-. That, however, the respondent Bank did not make the payment of said premium after 24.07.2018 and dispute arose between the parties with regard to payment of said premium and in this regard the petitioner also filed complaint before the Consumer Court against the respondent Bank as certain amount is due towards the respondent Bank on account of non-payment of premium. It is further submitted that the matter also reached Banking Ombudsman. That in order to prove his defence, the petitioner intends to summon the concerned Bank official along with copy of letter dated 07.09.2020, letter dated 31.03.2021, letter dated 31.05.2021 bearing Sr. No.116, letter dated 18.06.2021, letters dated 19.08.2021 and 15.03.2022 relating to correspondence between respondent Bank and concerned Insurance

Company and Banking Ombudsman and KYC norms of respondent Bank. It is further contended that the trial Court without appreciating the fact that respondent Bank defaulted in making payment of premium and dispute regarding the same is going on in the Consumer Forum, declined the application (Annexure P-5) regarding summoning of aforesaid documents which are necessary for just decision of the suit. So, prayer is made that the present petition be allowed and impugned order be also set aside.

5. I have considered the submissions made by counsel for the petitioner.
6. The petitioner has got every right to establish his defence by summoning the concerned record which is lying in the office of respondent Bank. The application (Annexure P-5) filed by the petitioner in this regard could not be dismissed just on the ground that the petitioner failed to put the said documents in cross-examination of the official who had already appeared as a witness on behalf of respondent Bank. The exact relevancy of the documents could be assessed only after going through their contents. However, in the light of the fact that there is certain dispute between the parties with regard to payment of insurance premium by the respondent, the trial Court should have allowed the application (Annexure P-5) regarding summoning of different letters, except for KYC norms of respondent Bank, in the interest of justice.
7. In the light of above, this Court is of the view that the impugned order being passed in an erroneous manner deserves to be set aside. Accordingly, the impugned order is hereby set aside and the present petition is partly allowed and petitioner is permitted to summon the concerned official of respondent Bank along with documents detailed as (i) to (vi) in para No.2 of application (Annexure P-5) on deposit of concerned process charges and diet money. However, it is made clear that the Bank official who has already appeared on behalf of respondent as a witness is not to be summoned again and in his place some other Bank official could be summoned along with the aforesaid record as a witness on behalf of the petitioner.
8. Any observations made hereinabove are not to be considered as opinion on merits of case.

9. Keeping in view the nature of order being passed, no notice is required to be issued to the respondent. However, if respondent feels dissatisfied with this order, it may move an application to recall the same.

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