



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

114

RSA-339-2022

Date of decision: 04.03.2025

NIRMAL SINGH

..Appellant

Versus

M/S MUTHOOT FINANCE LIMITED

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Viren Sibal, Advocate
Mr. Harshit Singla, Advocate for the appellant.

ANIL KSHETARPAL, J(Oral)

1. The plaintiff assails the correctness of First Appellate Court's judgment, which in turn has reversed the judgment of the trial Court. Admittedly, the plaintiff borrowed loan from the defendant while pledging his gold and diamond ornaments. The loans were taken in the year 2006. In the year 2015, the plaintiff filed suit for mandatory injunction after serving advance notice on 27.02.2015 to return gold ornaments as he was prepared to repay the loan. The defendant contested the suit on the ground that the pledged ornaments have already been sold/auctioned. It was also claimed that defendant issued notice to the plaintiff to clear the loan in the year 2008 but there was no response, hence, in a public auction, the gold ornaments were sold on 18.01.2009. The trial Court decreed the suit, however, the First Appellate Court reversed the same. It was found that the plaintiff did not take any action for a period of 6 years.
2. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.
3. Learned counsel for the appellant submits that there is no evidence to prove that the gold ornaments were ever sold in auction. He submits that the First Appellate Court has erred in accepting the appeal as the



cause of action to file the suit would arise as and when the plaintiff demand return of ornaments.

4. This Court has considered the submissions of learned counsel for the appellant.

5. It may be noted here that the only prayer made by the plaintiff is to return the gold ornaments. It is the case of the defendant that those gold ornaments have already been sold in auction. It means that defendants are claiming that the gold ornaments are no longer in their possession. In such circumstances, the plaintiff should have been advised to amend his suit. However, that stage has now gone. The plaintiff has also not sought any damages.

6. The cause of action to file suit for mandatory injunction would arise before the plaintiff committed default in repayment. Once a default was committed in repayment of the loan, a corresponding right accrued in favour of the defendant. As per Clause III of the terms of contract, on failure of the borrower to settle the loan within a period of 12 months, the pledged ornaments were liable to be sold without any further reference.

7. In this case, the loan was taken in the year 2006. The defendant claims that notice calling upon the plaintiff to repay the loan was issued in the year 2008. The suit was filed in the year 2015.

8. Hence, no ground to interfere is made out.

9. Dismissed accordingly.

10. All the pending miscellaneous applications, if any, are also disposed of.

March 04th, 2025

Ayub

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*

(ANIL KSHETARPAL)
JUDGE