



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

125

RA-RS-8-2025 in
IN RSA-5606-2014

Date of Decision: 27.02.2025

M/s Pioneer Timber Products

....Applicant-Appellants

Versus

M/s Brite Paints and Chemicals

.... Non-applicant/Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. SD Bansal, Advocate for the review applicant/appellants.

NIDHI GUPTA, J.

1. The review-applicant/appellants/defendants have filed the present application under Order XLVII Rule 1 read with Sections 114 and 151 CPC for review of the order dated 16.01.2025 passed by this Court whereby the main Regular Second Appeal filed by the applicant-appellants, was dismissed.

2. Learned counsel for the review-applicant/appellants, *inter alia*, submits that the order dated 16.01.2025, dismissing the main appeal deserves to be reviewed as both the Courts below as well as this Court have failed to consider and deal with the contention of the review-applicant/appellants that the suit was not filed by the duly authorized person of the respondent-plaintiff. It is submitted that therefore the suit ought to have been dismissed on this ground itself. However, none of the Courts have considered this aspect of the matter; and therefore, the order dated 16.01.2025, deserves to be reviewed.



3. No other argument has been raised by learned counsel for the applicant-appellants.

4. I have heard learned counsel for the review-applicant/appellants and perused the case file in great detail.

5. I find no merit is the sole argument raised on behalf of learned counsel for the review-applicant/appellants/defendants.

6. Perusal of the case file shows that the Power of Attorney dated 25.06.1993/Ex. DX in the name of Mr. Sat Parkash was duly filed by the plaintiff-Company, and the same is also available on the record of the case. Further, on the basis of the pleadings of the parties, following issues were framed by the learned trial Court on 25.10.2006: -

1. *Whether the plaintiff is entitled to recover Rs.1,21,008/- ? OPP*
2. *Whether the plaintiff is entitled to recover interest of Rs.68,778/-? If so, at what rate? OPP*
3. *Whether plaintiff has got no cause of action to file the present case? OPD*
4. *Whether the plaintiff has no locus standi to file the present case? OPD*
5. *Whether the suit is not maintainable? OPD*
6. *Relief.”*

7. During the pendency of the suit, an application under Order XIV Rule 5 read with Section 151 CPC was filed on 18.03.2010 by the review-applicants for framing additional issues, pursuant to which additional issues No. 6-A and 6-B were framed by the learned trial Court on 26.07.2010, which reads as follows:-

“6-A Whether the suit of the plaintiff has been filed within limitation? OPD



6-B Whether the suit filed by the incompetent person is sustainable in law? OPD”

8. Findings of the learned trial Court in respect of the said additional issues are contained in para-No. 15 of the judgment and decree dated 01.09.2010, which reads as under:-

“15. Further, though the defendants have challenged the authority of Sh. Sat Parkash, who has filed the present suit in the capacity of Depot Manager/Authorized signatory of plaintiff concern, on the ground that he is not competent to file and pursue the present suit. However, it is the categorical plea of the plaintiff in the present suit that said Sh. Sat Parkash has been dealing with the defendant, throughout the period and this fact has not been denied by the defendants and the defendants have merely taken a bald plea that said Sh. Sat Parkash is not the competent person to file the present suit without disclosing as to who is the competent person to sue the defendants for and on behalf of the defendant concern. Further to prove his competency to deal with the present case, Sh. Sat Parkash has proved on record the photo copy of General Power of Attorney Ex. DX executed by Sh. Subhash Bhatia, Proprietor of the plaintiff firm M/s. Brite Paints & Chemicals in favour of Sh. Sat Parkash to look after and manage the affairs of the plaintiff firm in and around Union Territory of Chandigarh, Himachal Pradesh, Punjab and Haryana, hence this contention of the learned counsel for the defendants is also without any merits.”

9. The relevant findings of learned lower Appellate Court in regard of the additional issues regarding competency of Mr. Sat Prakash to file the suit, are contained in para-Nos.14 and 24 of the judgment and decree dated 01.05.2014, which read as under:-

“14. Learned counsel for the defendants argued that suit was filed by a proprietorship firm not through its proprietor, but through Sh. Sat Parkash, who failed to bring on record the Power of Attorney executed in his



favour authorizing him to file the suit. He further submitted that Ex DX was the copy of General Power of Attorney in favour of Sh. Sat Parkash which he admitted in cross-examination and the document nowhere authorized Sat Parkash to file the suit. Therefore, the suit filed by Sat Parkash was not maintainable.

15 to 23 XXX XXX XXX XXX

24. So far as contention of learned counsel for the defendants that Sh. Sat Parkash was not the duly authorized person to file the suit is concerned, learned trial Court has correctly observed that Ex. DX was the General Power of Attorney executed by proprietor of the plaintiff firm in favour of Sat Parkash authorizing him to look after and manage the affairs of the firm in and around U.T. Chandigarh----- . It cannot, therefore, be held that suit was not filed by duly authorized person.”

10. Therefore, no ground to review the order dated 16.01.2025 is made out as both the Courts below have duly considered and dealt with the contention of the review-applicant/appellants that the suit was not filed by the duly authorized person of the respondent-plaintiff. It may be pointed out that at the time of hearing of the main Appeal before this Court on 16.1.2025, no argument regarding competence of Mr. Sat Parkash to file suit was raised by ld. counsel for the review-applicant.

11. Even otherwise, even if the objection raised by the review-applicant/appellants that Mr. Sat Parkash is not the authorized person to file the suit is accepted for the sake of argument, the same is liable to be rejected as, merely a procedural infirmity would not render a decision nullity. If an illegality results into no injustice, then merely because a procedural illegality was committed during the trial, the decision given by the trial Court should not be considered as nullity. In holding as



above, I draw support from a Full Bench judgment of this Court in *Amrik Singh Etc. vs. Karnail Singh etc., Law Finder Doc Id # 63533*, wherein it has been held that '*too much insistence on technical provisions of a procedural law can at time lead to absurd results and cause injustice to parties*'. It is to be noted that in the present application, no argument has been made by learned counsel for the applicant-appellant, as regards the merits of the order dated 16.01.2025.

12. Furthermore, it is established position in law that a review application is not meant to permit the review applicants to re-argue the entire case and raise the points that could have been raised during the initial hearing. The order dated 16.1.2025 was passed in the presence of learned counsel for the review-applicants. An order passed by this Court can be reviewed if there is manifest error on the face of the record meaning thereby that there is a clear and obvious mistake in the judgment. The Review Application is not meant to re-agitate arguments or pleadings that were omitted during the hearing of the main matter. As such, I find no ground is made out for review of the order dated 16.1.2025.

13. In view of discussion made above, present review application is **dismissed**.

27.02.2025
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(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No