



RSA-764-2021 (O&M)

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

(111)

RSA-764-2021 (O&M)
Date of Decision:-17.02.2025

Sanjeev Kumar

.....Appellant

Versus

Branch Manager, Oriental Bank of Commerce and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE ALOK JAIN

Present: Mr. Nitesh Singla, Advocate for the appellant.

ALOK JAIN, J. (Oral)

1. The present appeal arises out of the concurrent judgments given by the Courts below, whereby, the suit for declaration to the effect that plaintiff firm has got sanctioned a Over Draft limit of Rs.46,50,000/- (Forty six lac fifty thousand) vide letter No.ROB/ADV/44-2/2009/18352 dated 10.03.2010 from the respondents which was sanctioned against security of National Saving Certificate (NSC) face value Rs.50 lac given by plaintiff firm and its family. The said limit was issued by the defendants with interest @ 10% annual (Primary Lending Rate @ 2%) a sanction letter was issued to the plaintiff firm accordingly. Later on, defendant No.2 had issued letter dated 13.10.2010 to defendant No.1 and in the suit, it has been contended that the same was wrong & illegal and issued arbitrarily against the law and not binding on the plaintiff-firm. The suit was dismissed by learned trial Court vide judgment and decree dated 06.02.2018 by returning the finding that "on



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the receipt of the show cause notice, which has duly been admitted by PW-1 in his cross-examination, the plaintiff instead of filing reply chose to remain silent on the issue which resulted in deduction of the amount of interest to the tune of Rs.1,80,216/- by the defendants from the account of the plaintiff. Since the plaintiff concealed this fact (regarding issuance of show cause notice by the defendants to the plaintiff), the plaintiff is not entitled to relief of declaration as well as mandatory injunction. As such, both these issues are decided against the plaintiff and in favour of the defendants.” Subsequently, the First Appellate Court also dismissed the appeal filed by the appellant/plaintiff vide judgment dated 08.08.2019.

2. Learned counsel for the appellant has vehemently argued that both the Courts below fell in error as the core issue in the suit has not been decided and appellant has been non-suited only on the ground of concealment of a show cause notice having been issued to him. Learned counsel for the appellant submits that issuance or non-issuance of the show cause notice was not required to agitate his claim as appellant was only challenging the arbitrary correction made by the Bank whereby the rate of interest has been raised.

3. On a specific query put forth by this Court, learned counsel for the appellant has informed that the loan amount stands settled and there is nothing outstanding towards the Bank.

4. On merits, he has submitted that the trial Court after completion of pleadings framed the following issues:-

- 1) *Whether the plaintiff is entitled to the relief of declaration as prayed for? OPP.*
- 2) *Whether the plaintiff is entitled to relief of mandatory injunction as prayed for? OPP*



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- 3) *Whether the suit of the plaintiffs is not maintainable in the present form? OPD.*
- 4) *Whether the plaintiff is estopped by his own act and conduct from filing the present suit? OPD*
- 5) *Whether the plaintiff has no cause of action or locus standi to file the present suit? OPD*
- 6) *Relief.*

5. In furtherance to the issues framed, the appellant brought in ample evidence as well as the defendants also led cogent and extensive evidence. Learned counsel for the appellant further submits that the Courts below have misconstrued the evidence led by the appellant and non-suited him by returning a finding that the plaintiff-appellant had concealed the fact of issuance of a show cause notice to him by the Bank.

6. Heard the learned counsel for the appellant at length.

7. A perusal of the record also demonstrates that it was a case where the appellant was paying interest at a particular rate, however, due to an inadvertent error on part of a Bank official, the rate of interest was reduced and when this anomaly became apparent, the Bank issued a show cause notice to the appellant and since the appellant did not respond to the same, the Bank restored to original rate of interest agreed upon by the appellant. Re-imposition of the original rate of interest which was agreed to, was challenged by the appellant in the civil suit which has been rightly negated by both the Courts below as the Bank had duly served notice to the appellant. The appellant concealed the factum of issuance of notice to him which is fatal. More so, it is settled principle of law that the person has to approach the Court with complete details and clean hands and honest intention.



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8. The appellant has been non-suited on all the grounds as raised in the present appeal and this Court does not find any infirmity in the judgments and decrees passed by the Courts below as the appellant has not been able to demonstrate anything contrary to law. Moreso, in light of the fact that the appellant has cleared the loan amount and settled the transactions with the Bank and nothing is due, the present appeal is only academic.

9. In light of the above, finding no infirmity in the orders passed by the Courts below, the present appeal is dismissed.

10. Pending miscellaneous application(s) shall stand disposed of.

(ALOK JAIN)
JUDGE

February 17, 2025.

S. Sethi

Whether speaking/reasoned:- Yes/No
Whether Reportable:- Yes/No