(1991) 04 P&H CK 0057

In the Punjab And Haryana At Chandigarh

Case No : Civil Revision No. 3231 of 1990

Bank of India APPELLANT

Vs

Universal Electric Store and Others RESPONDENT

Date of Decision : 01-04-1991

Acts Referred:
Civil Procedure Code, 1908 (CPC) — Order 6 Rule 17

Citation : (1991) CivCC 664

Hon'ble Judges : Ashok Bhan, J

Bench : Single Bench

Advocate : T.S. Doabia and I.P.S. Doabia, for the Appellant; A.L. Behal, for the Respondent

Final Decision : Allowed

Judgement

Ashok Bhan, J.—The petitioner-Bank of India (hereinafter referred to as "the bank") filed a suit on October 15, 1986, against the defendant-respondents for the recovery of Rs. 2,60,645.15. The suit was filed by the bank through Shri Chander Kant Amrit Lal Asher as the principal officer and duly constituted attorney of the plaintiff-bank having the authority to sign and verify the plaint.

2. The defendant-respondents, in their written statement filed in May, 1987, took a preliminary objection that Chander Kant Amrit Lal Asher was not a duly constituted principal officer of the bank and had no proper authority to sign and verify the plaint.

3. After a delay of two years, the bank has filed an application under Order 6, Rule 17 of the CPC (hereinafter referred to as "the Code") wherein it has sought the following amendment in the plaint :

"That the plaint is signed and verified by Shri R. C. Khanna, who is the principal officer of the plaintiff-bank and is also a duly constituted attorney of the plaintiff. Shri R. C. Khanna is conversant with the facts of the case on the basis of knowledge derived from the records of the plaintiff. On the basis of power of attorney, he is authorised to do all acts connected with the filing and prosecution of the present suit, to sign verify the plaint and to engage counsel, etc."

4. This application was contested by the defendant-respondents and the trial court declined the application filed by the bank preliminarily on the ground that the application for amendment had been filed by the bank at a belated stage and that the plaintiff-bank had nowhere stated in their application for amendment that Shri B.C. Khanna was also authorised to verify the present suit. It has further been observed by the trial court in its order that had the bank mentioned that Shri R. C. Khanna was also authorised to verify the present suit, then there would have been no difficulty to allow the proposed amendment.

5. Learned counsel for the petitioner has brought to my notice that the trial court has committed an error of fact in observing that it is not the case of the plaintiff-bank that Shri R.C. Khanna was also authorised to verify the present suit ; that, in fact, it has been specifically mentioned in the application for amendment under Order 6, Rule 17 of the Code that Shri R.C. Khanna is the principal officer of the bank and is a duly constituted attorney of the bank ; that, on the basis of the power of attorney, he is authorised to do all acts connected with filing and prosecution of the present suit, to sign, verify the plaint and to engage counsel, etc.

6. I have gone through the contents of the application filed by the bank under Order 6, Rule 17 of the Code, wherein it is so stated. The trial court has thus committed an error of fact in observing that it is not the case of the plaintiff-bank that Shri R.C. Khanna, was also authorised to verify the present suit.

7. The second reason for rejecting the application for amendment of the written statement given by the trial court is that the same has been filed at a belated stage. There is no doubt that the application for amendment has been filed at a belated stage but, keeping in view the fact that the amendment is to remove a technical objection taken by the defendant-respondents in their written statement that Shri Asher was not the principal officer or the duly constituted attorney of the plaintiff-bank, I deem it proper to permit the plaintiff-bank to amend its plaint as prayed for by it in its application under Order 6, Rules 14, 15 and 17 read with Section 151 of the Code. Shri R. C. Khanna is permitted to re-sign and verify the plaint as principal officer of the plaintiff-bank. The revision petition is, accordingly, accepted. The impugned order of the trial court is set aside and the plaintiff-bank is permitted to amend its plaint as prayed for and Shri R.C. Khanna, being the principal officer and a duly constituted attorney of the bank, is permitted to re-sign and verify the plaint filed by the plaintiff-bank. As the bank hati filed the present application for amendment, at a belated stage, it is burdened with costs of Rs. 1,000.