(2011) 02 DEL CK 0062

In the Delhi High Court

Case No : Regular First Appeal No. 77 of 2001

Dr. Gurbachan Singh Awla APPELLANT

Vs

Delhi State Industrial Development Corporation Ltd. RESPONDENT

Date of Decision : 01-02-2011

Acts Referred:
Civil Procedure Code, 1908 (CPC) — Section 96

Citation : (2011) 02 DEL CK 0062

Hon'ble Judges : Valmiki J Mehta, J

Bench : Single Bench

Advocate : None, for the Appellant; S.L. Gupta, Attorney and Nisha Ravi Gupta, for the Respondent

Final Decision : Dismissed

Judgement

Valmiki J Mehta, J.—This case is on the Regular Board of this Court since 3.1.2011. No one appears for the parties although it is 11.45 a.m. This case is effective item No. 11 on the Regular Board of this Court today. I have therefore perused the record and I am proceeding to dispose of the matter.

2. The challenge by means of this regular first appeal u/s 96 CPC read with Section 38 of Punjab Courts Act, 1918 is to the impugned judgment and decree dated 24.11.2000 whereby suit for recovery of the Respondent/Delhi State Industrial Development Corpn. Ltd. was decreed.

3. The facts of the case are that the Appellant/Defendant took a loan of Rs. 53,450/- from the Respondent as margin money required to give to his bank for sanctioning limits for running industry/business. The Appellant/Defendant executed a mortgage bond in favour of the Plaintiff on 5.2.1976 undertaking to pay the mortgage amount along with interest @ 2.5% per annum. Though the Appellant/Defendant in his pleading denied having taken the loan, however, in the cross-examination he admitted that he had indeed applied to Respondent/ Plaintiff for margin money so that he can get money from the bank. The

Appellant/Defendant also admitted that loan was taken by him and which was repayable in two installments. The trial court has considered the mortgage bond which was exhibited as Ex.PW2/4 and also other documents including the legal notice Ex.PW2/6 issued to the Appellant on his failure to pay the loan amount with interest.

4. The main issue which was argued before the trial court was that the rate of interest ought to be only 2.5% per annum and not 21% per annum. It was argued on behalf of the Appellant that the rate of interest is stated to be 2.5% per annum in the original period which was to expire on payment of the second installment, however, even if there is a default, the Respondent/Plaintiff was entitled only to the normal rate of 2.5% per annum and not commercial rate of interest being 21% per annum.

5. The trial court has relied upon a decision of this Court in the case of Delhi State Industrial Development Corporation Vs. Anil Kashyap, in which in similar facts it was held that the right to claim concession ceases when once there is default in repayment of the loan beyond the prescribed period, and for the period beyond the contractual period commercial interest can be charged. I do not find any illegality or perversity in the findings of the trial court. After all the Appellant/ Defendant was liable to pay the loan. It cannot mean that even beyond the contractual period, the Appellant is only liable to pay a concessional contractual interest @ 2.5%. This Court would not interfere in the findings of the trial court merely because two views are possible, unless the view taken by the trial court is illegal or cause great injustice, I do not find that justice requires interfering with the impugned judgment/decree.

The appeal is therefore dismissed leaving the parties to bear their own costs. Trial court record be sent back.

