

(1998) 12 P&H CK 0135

In the Punjab And Haryana At Chandigarh

Case No : Regular Second Appeal No. 746 of 1998

Mahalaxmi Textiles and Another

APPELLANT

Vs

Haryana State Handloom and Handicrafts Corporation

RESPONDENT

Date of Decision : 11-12-1998

Acts Referred:

Citation : (1999) 121 PLR 801 : (1999) 4 RCR(Civil) 388

Hon'ble Judges : Swatanter Kumar, J

Bench : Single Bench

Advocate : S.K.S. Bedi, for the Appellant;

Final Decision : Dismissed

Judgement

Swatanter Kumar, J.—The plaintiff, Haryana State Handloom & Handicrafts Corporation Limited, had filed a suit for recovery of Rs. 30,397.71 against M/s Mahalaxmi Textiles and its partner. The material for printing which was being supplied according to the defendant had got damaged and they had been requested to pay the amount with 15% interest, which the Corporation was entitled to. The defendants failed to pay the said amount, thus suit for recovery was instituted.

2. The defendants contested the suit. Various objections were raised including that the plaint was not signed, verified and suit instituted by a duly authorised person. The question relating to jurisdiction was also raised. The learned trial Court decreed the suit of the plaintiff answering all the issues against the defendant vide its judgment and decree dated 6.1.1993, which was unsuccessfully assailed in appeal. The appeal preferred by the defendants was rejected by the learned First Appellate Court vide its judgment and decree dated 29.9.1997.

3. On the basis of the documentary evidence adduced the learned Courts below have come to a concurrent finding of fact that the Corporation was entitled to recover the value of the material supplied by it, which was hardly disputed. In

this regard Ex.P.4 and the reply sent by the defendants vide Ex.P.5 conclusively determined the issue between the parties and the plea taken by the defendants had been rightly rejected by the learned Courts below. In regard to authorisation in favour of the Secretary of the Company, the resolution Ex.P.1 reads as under-

"Resolved that the Secretary of the Corporation be and is hereby delegated the powers to appear in or defend any legal proceedings in the names and on behalf of the company to sign and verify plaint and pleadings and other document engage and to instruct any advocate, solicitors and lawyers and to execute Vakalatnama or other authority in their favour and to compound and compromise any claims, suits and proceedings subject to general superintendence and control of the Managing Director. The Board authorised the Managing Director to execute a General Power of Attorney in the name of the Secretary for delegating the above powers."

4. Based on the above resolution the contention of the learned counsel for the appellant is that the Managing Director ought to have executed the general power of attorney in the name of the Secretary and in absence thereof he would have no power to file the suit. This contention needs to be rejected on the bare reading of the afore stated resolution. The Secretary of the company had been authorised by the Board of Directors of the Corporation itself vide Ex.P1 and it was only an ancillary act which the Managing Director could do by executing power of attorney in the name of the Secretary. However, he was to act under the supervision of the Managing Director. Even other documents were placed on record and it has also come in evidence that power of attorney was executed in favour of the Secretary and photo copy thereof was placed on record. In these circumstances I am unable to see any error of jurisdiction in the impugned judgments nor it can be said that the approach of the Courts below is not well founded. The concurrent finding of facts arrived at by the learned Courts below cannot be interfered by this Court in regular second appeal.

5. No merit. Dismissed in limine.