
(2003) 12 DEL CK 0074

In the Delhi High Court

Case No : Regular First Appeal (OS) : 3 of 2003

M/s. Bharat Cine Co. Pvt. Ltd. and Others

APPELLANT

Vs

Punjab National Bank

RESPONDENT

Date of Decision : 11-12-2003

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 8 Rule 10, 2(a)

Citation : (2003) 2 ILR Delhi 613

Hon'ble Judges : B.N. Chaturvedi, J;B.A. Khan, J

Bench : Division Bench

Advocate : Ravindra K. Das, for the Appellant; Kamal Nijhawan, for the Respondent

Final Decision : Allowed

Judgement

B.A. Khan, J.—Suit No. 1452/1998 was filed by the respondent against appellant for recovery of Rs. 8 lacs and odd. Appellant (defendant) failed to file written statement despite several opportunities granted and learned Trial Judge passed impugned judgment dated 10.5.2002 decreeing the suit under Order 8 Rule 10 CPC. Appellant challenged this on the sole ground that it was not a judgment and was, therefore, liable to be set aside. It is submitted that learned Trial Judge was required to give grounds/reasons to support the decree even if judgment was pronounced under Order 8 Rule 10 CPC. Order 8 Rule 10 CPC provides a procedure for Court to pronounce the judgment against the defendant who fails to present the written statement after being called by the court. The relevant provision reads thus:-

ORDER VIII RULE 10

2. Procedure when party fails to present written statement called for by Court. When any party from whom a written statement is required under rule 1 to rule 9 fails to present the same within the time permitted or fixed by the Court, as the case may be, the Court shall pronounce judgment against him, or make such

order in relation to the suit as it thinks fit and on the pronouncement of such judgment, a decree shall be drawn up.

3. The Rule empowers Court to pronounce a judgment against the defendant for his failure to submit a written statement within the time prescribed/fixed by the court. This failure means that he admits the allegations in the plaint and not that it closes his options to oppose the suit through other means. Be that as it may, the failure authorizes the court to pronounce a judgment against him. Though the Rule says that the court shall pronounce the judgment against him, it does not, however, make it mandatory for the court to pass a decree against him. As a matter of fact, the court may pass any other order it deems fit short of pronouncing the judgment. But when it pronounces the judgment, it must make sure that the requirement of law is satisfied. In other words, the judgment pronounced by it must be a judgment as defined in Section 2(a) of CPC. It cannot be an ipse dixit or a one word pronouncement unsupported by reasons indicating the case set up by the plaintiff and the evidence, if any, in support thereof. It must be a decision on facts and law.

4. Section 2(a) of CPC defines judgment as a statement given by the Judge on the grounds of a decree or order. The sine qua non of a judgment is that there should be a statement of the grounds of the decision. (See AIR 1960 SC 1069 THE COMMISSIONER OF INCOME TAX MADRAS VS. S. CHENNAIPPA MUDALIAR).

5. Viewed thus, the impugned one para judgment is not a judgment as contemplated by Order VIII rule 10. It provides no clue of plaintiff's case. Nor does it make reference to any supportive documentary or other evidence on the basis of which a decree could be drawn. It is, therefore, no judgment in the eye of law and requires to be set aside. This appeal is accordingly allowed and the impugned judgment set aside. Suit No. 1452/1998 filed by respondent shall revive and be proceeded with and disposed of afresh under law. Registry to list this suit before appropriate Bench on 19.1.2004, Parties to appear before the court on that date.