

KOTAK MAHINDRA BANK Vs MAHIL SINGH

Present: Sh.Nitin Ahluwalia, counsel for complainant.
Accused on bail with counsel Sh.Jiteshwar Malhi, Advocate.

This is an Action Plan 2026-27 case.

The case was fixed for remaining arguments on the application seeking substitution of authorized officer of complainant bank.

It has been submitted in the application that the complainant bank was being represented by Sh.Mukesh Kumar, who has left the job, now Sh.Basuki Nath Srivastava, shall be representing the complainant as authorized officer and prayed that the present application be allowed.

In reply, it has been submitted that the present application is not maintainable in the present form and is a misuse of process of law. It is further submitted that the complainant has not approached this Court with clean hands and has concealed and suppressed the material facts from this Court to get a favorable order in his favour. It is further submitted that the present application has been filed without proper supporting affidavit and the complainant has failed to establish that Shri Basuki Nath Srivastava was duly appointed as the new attorney, as neither any authority letter nor a power of attorney was filed along with the application. It is further submitted that in accordance with legal provisions, the complaint under Negotiable Act can only be pursue by the Power of attorney if the power of attorney had witnessed the transaction as well as sanctioning of the loan as an agent of the payee and have due knowledge regarding the same. It is pertinent to mentioned here that at the time of alleged sanction of loan as well as issuance and presentation of the cheque in question Shri Basuki Nath Srivastava was not the Principal Officer nor he was posted at the Branch. Hence, he is not competent to pursue the present complaint and the complaint be dismissed on this sole ground. It is further submitted that the complainant is directed to place on record the affidavit by stating that Shri Basuki Nath Srivastava was holding the post of manager at the time when the alleged loan was sanctioned and the cheque in question was issued and presented and all the documents in question were executed by the accused in the presence of Shri Basuki Nath Srivastava. It is further submitted that the complainant has filed this application before this Hon'ble court at very belated stage. If the present application is allowed, it will caused great prejudice to the accused as the nature

of the entire case would change therefore, prayed that the present application be dismissed.

Heard. It is not disputed that the complainant is a juristic entity and can act only through its authorized representatives. The present complaint was initially instituted through an authorized representative of the complainant company. The complainant has now placed on record a Resolution in favour of Sh. Basuki Nath Srivastava authorizing him to represent the company in legal proceedings and to pursue the present complaint on its behalf. The substitution sought is not of the complainant company itself but only of its authorized representative. The complainant company continues to remain the same legal entity. The change is merely with respect to the person authorized to represent the company before the Court.

The objection as to whether the authorised representative has personal knowledge of the transaction, or whether he is competent to depose with regard to particular facts, is a matter which can be considered at the appropriate stage of the proceedings in accordance with law and on the basis of the evidence led by the complainant. Furthermore, the accused shall have full opportunity to cross-examine the newly substituted authorized representative in accordance with law. Substitution does not take away any statutory or procedural right of the accused. Along with the application, Resolution has been enclosed whereby Sh. Basuki Nath Srivastava has been authorized to represent the present case. The complainant is a juristic person. More so, the complaint is under Section 138 of NI Act which is based on mainly documentary evidence. In view of the contents of the application as well as in view of the document i.e. Resolution, the application stands allowed. Now, case is adjourned to **02.09.2026** for complainant evidence.

Further, the Ld. Counsels and parties have been apprised that this being an Action Plan matter, it must be disposed off expeditiously. Consequently, no unnecessary adjournments shall be granted. The parties are directed to ensure timely compliance with all respective directions.

Date of Order: 10.08.2026
*Dharamvir, Stenographer Gr.II**

(Ritu Tanwar)
Judicial Magistrate Ist Class,
Chandigarh
UID No . HR0651