

IN THE SUPREME COURT OF INDIA
 CIVIL APPELLATE JURISDICTION
 CIVIL APPEAL NO. 4682 OF 2006

PUNJAB FINANCIAL CORPORATION ...APPELLANT

VERSUS

M/S. JAY KAY SYNTHETICS AND ANOTHER ...RESPONDENTS

O R D E R

1. This appeal has been filed against the judgment of the Punjab & Haryana High Court whereby the writ petition filed by the respondent No. 1 herein was allowed and a direction was given that the original title deeds which were lying with the appellant herein-Punjab Financial Corporation should be returned to the respondent No. 2 Canara Bank.

2. The brief facts of the case are that respondent No. 1 - M/s Jay Kay Synthetics raised a loan of Rs. 90 lakhs from the appellant. Respondent No. 1 deposited the original title deeds of its property as collateral security with the appellant. On 28.11.1997, a tripartite agreement was entered into between the parties herein. Respondent No.2 - Canara Bank sanctioned credit facility under the said agreement up to a limit of Rs. 50,00,000/- to the respondent No. 1 on the condition that the borrower shall mortgage the land by way of second charge the first charge being in favour of appellant against the repayment of the dues of the bank under the aforesaid credit facility.

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3. It is an admitted position that thereafter respondent No. 1 paid every penny of loan which it had borrowed from the appellant. However, inspite of this, the appellant was avoiding to return the original title deeds. Therefore, respondent No. 1 filed a writ petition before the Punjab & Haryana High Court for a direction to return the original title deeds. By way of their

defence before the High Court, appellant contended that firstly the bank had not obtained any approval from it which should have been obtained as per the tripartite agreement and secondly and more importantly, two partners of the respondent No. 1- firm namely; Narinder Kumar Jain and Devender Kumar Jain were also the directors of the sister concern namely; M/s. Roses Floriculture Ltd. and both of them had executed personal bonds as security against the loan obtained by M/s. Roses Floriculture Ltd. in favour of the appellant. It is on this ground that the appellant-Corporation refused and justified its refusal to return the original title deeds.

4. The High Court, in our opinion, has correctly come to the conclusion that the appellant-Corporation could not have refused to return the original title deeds once it was an admitted case that all the loans given by it to respondent No. 1 were returned. The High Court further observed that under the tripartite agreement, there was a second charge created by Canara Bank and, therefore, the said title deeds were bound to be returned to Canara Bank which had advanced a loan of Rs. 50 lakhs to the respondent No. 1.

5. Mr. Sunil Dogra, learned counsel appearing for the appellant very earnestly suggests that in fact the securities given by the directors namely; Narinder Kumar Jain and Devender Kumar Jain, who were partners of respondent No. 1 - Jay Kay Synthetics, were the personal securities and, therefore, even if the title deeds were not the subject-matter of loans raised by M/s. Roses Floriculture Ltd. or were not tendered with the Corporation as security for that loan in favour of M/s. Roses Floriculture, the appellant would be justified to refuse their return, particularly in view of the huge dues on the part of M/s. Roses Floriculture Ltd..

6. In our opinion, the position taken by the appellant is wholly incorrect. Appellant-corporation could not have added to

the securities given by the directors for securing loans in favour of M/s. Roses Floriculture Ltd. What the appellant-Corporation was doing was directly adding to the securities given by the directors by holding back these title deeds for realisation of loan of M/s. Roses Floriculture. Such an arrangement was not permissible in law at all. In our opinion, the High Court was absolutely right in giving a direction as it did. This appeal has no merits and is, accordingly, dismissed.

7. It is submitted by Mr. Dogra, learned counsel that during the pendency of this appeal, a contempt petition was taken by

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respondent No. 1. Mr. M.K. Dua, learned counsel appearing for

the respondent No. 1 as also Mr. Ravindra Kumar, learned counsel appearing for Canara Bank make a statement before us that they are not interested in proceeding with the Contempt Petitions. The Contempt Petitions are, therefore, to be disposed of.

.....J.
[V.S. SIRPURKAR]

.....J.
[DR. MUKUNDAKAM SHARMA]

NEW DELHI
NOVEMBER 25, 2009.

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ITEM NO.106

COURT NO.9

SECTION IV

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS
CIVIL APPEAL NO(s). 4682 OF 2006

PUNJAB FINANCIAL CORPORATION

Appellant (s)

VERSUS

M/S. JAY KAY SYNTHETICS AND ANR.

Respondent(s)

(With office report)

Date: 25/11/2009 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE V.S. SIRPURKAR
HON'BLE DR. JUSTICE MUKUNDAKAM SHARMA

For Appellant(s) Mr. Sunil Dogra, Adv. for
M/S. Lawyer'S Knit & Co

For Respondent(s) Mr. Ravindra Kumar,Adv.
Mr. M.K. Dua,Adv.

UPON hearing counsel the Court made the following

O R D E R

The appeal is dismissed in terms of signed order.

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(Pardeep Kumar)
Court Master

(Shashi Bala Vij)
Court Master

[SIGNED ORDER IS PLACED ON THE FILE]