

Court No. - 4

Case :- SECOND APPEAL No. - 237 of 2024

Appellant :- Uma Shankar

Respondent :- Vikas Singh

Counsel for Appellant :- Prahlad Maurya, Alok Kumar Singh, Anam Som Ratna Maurya

Hon'ble Rajnish Kumar, J.

1. Heard Shri Prahlad Maurya, learned counsel for the appellant.

2. Learned counsel for the appellant submits that the parties had formed a partnership firm for brick kiln on 31.01.2013. The firm was dissolved on 14.11.2014 and thereafter the brick kiln was sold to Shri Hari Om Verma. The firm had purchased a Scorpio vehicle, for which the money was paid by the appellant, therefore, after dissolution of the firm, the appellant demanded 50% of actual cost of Rs.12,81,305/- of the Scorpio, which comes to Rs.6,40,652.50. However, the same was not paid, therefore, the appellant filed a civil suit for recovery of the said amount. The suit has been dismissed without considering the admission of the respondent that the vehicle is with him and he had received Rs.2,00,000/- out of which Rs.1,00,000/- has been paid to the appellant. The appellate court also failed to consider the same and the documents placed on record at the appellate stage, therefore, the appellant is constrained to approach this Court.

3. Having considered the submissions of learned counsel for the appellant, I have perused the documents placed on records.

4. Admittedly, the parties had entered into a partnership on 31.01.2013, which dissolved on 14.11.2014. The firm was constituted for running a brick kiln and after dissolution of firm the brick kiln was sold to Shri Hari Om Verma. The firm had purchased a Scorpio vehicle bearing Registration No.U.P.-32-EY-0408 on 01.07.2013. The claim of the appellant is that the total cost of the vehicle was paid by the appellant, whereas admittedly the vehicle was purchased by the firm, therefore, the contention of the learned counsel for the appellant is not tenable. The appellant has also not disclosed the actual cost of the vehicle because he disclosed the cost of the vehicle as Rs.12,81,305/- and filed a suit for recovery of 50% of the said amount i.e. Rs.6,40,652.50, whereas the actual cost of the

vehicle was Rs.11,37,895/-. As per the findings recorded by the court's below, the vehicle was purchased by the firm, therefore, it can not be said that it was purchased by the appellant.

5. So far as the claim of the respondent that he had received Rs.2,00,000/- in cash from a coal dealer, out of which Rs.1,00,000/- was paid to the appellant, it has no concern with the instant matter because in the present case the appellant has not even disclosed the actual cost of vehicle and admittedly he has received an additional cheque of Rs.3,00,000/- at the time of dissolution of the firm, which also could not be explained by the appellant. Even otherwise, since the appellant had not come with the clean hands as he has failed to disclose the actual cost of the vehicle and the cost of the vehicle also depreciates after purchase, this Court does not find any illegality or error in the findings recorded by the court's below. No substantial question of law arises in this case. The appeal has been filed on misconceived and baseless grounds, which is liable to be dismissed.

6. The appeal is, accordingly, **dismissed**.

(Rajnish Kumar, J.)

Order Date :- 19.12.2024

Haseen U.