

**HIGH COURT OF TRIPURA
AGARTALA**

RSA No. 30 of 2024

Sri Narayan Chandra Das.

.....Appellant(s)

Versus

Shri Subhash Das.

.....Respondent(s)

For Appellant(s) : Mr. B. Banerjee, Adv.

For Respondent(s) : Mr. S. Das, Adv.

HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA

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30.01.2025

Heard Mr. B. Banerjee, learned counsel appearing for the appellant.

Also heard Mr. S. Das, learned counsel appearing for the respondent.

The case of the plaintiff is that his brother Mr. Krishnadhan Ch. Das gave loan of Rs.2,50,000/- to the respondent on condition that same would be paid within one year, but the respondent (Defendant) repaid only Rs.1,00,000/-, and rest amount of Rs.1,50,000/- remained unpaid and for recovery of the same ultimately the suit was filed. The defendant denied the liability of refund in his written statement and also denied the allegations of taking of any such loan.

In the Trial Court, some documents such as one authorization letter dated 25.12.2015 (Exbt.-1), one money receipt dated 17.12.2013 (Exbt.-2), one statement dated 07.02.2008 (Exbt.-3) and another statement for the month of February, 2008 (Exbt.-4) were proved into evidence by the plaintiff-appellant to prove his case.

Learned Trial Court while dismissing the suit observed that Exbt.-4 did not bear the signature of the defendant and that plea of the plaintiff regarding deposit of Rs.50,000/- in the name of defendant in the Rose Valley Company could not be legally acceptable in spite of Exbt.2,3, & 4 as same were beyond the pleading. In fact, the PW-1 in his cross-examination admitted that there has been a longstanding business transaction between the Rose Valley and the brother of the plaintiff and the defendant in his cross-examination admitted that said Krishnadhan Ch. Das deposited an amount of Rs.50,000/- in his name in Rose Valley Corporation Limited and said Krishnadhan Ch. Das was a Rose Valley Agent for which he gave him Rs.50,000/- to deposit the same in said Rose Valley Corporation on his behalf.

Mr. Banerjee, learned counsel fairly submits that the money receipt under Exbt.-2 relates to said deposit of Rs.50,000/-. The gist of the observation of Ld. Trial Court was that the plaintiff could not prove giving of Rs.2,50,000/- to the defendant as loan. Same observation was maintained by Ld. First Appellate Court and said Court also came to categorical finding that there was no proof that Rs.2,50,000/- was paid to the defendant by the plaintiff or his brother as loan.

Mr. Banerjee, learned counsel argues that while plaintiff was cross-examined, no denial was given to him to the effect that the defendant did not borrow any such loan from the plaintiff's brother, which, according to learned counsel, otherwise means that it was the admission of the defendant that he had taken loan of Rs.2,50,000/- from the plaintiff and omission to give any such

denial while cross-examining the plaintiff, the plaintiff's case has been established by way of admission by the defendant.

Considered the submission and also perused the record.

It is always incumbent upon the plaintiff to prove his own case on his own strength. Both the courts below after appreciation of the evidences led by the parties have come to the definite finding that nothing was there to establish about such loan transaction of Rs.2,50,000/- taken place between the parties. Before this court also, nothing could be shown by the appellant that any such amount was paid to the defendant by them.

Omission to give any such denial, therefore, cannot be turned as admission on the part of the defendant regarding taking of such loan of Rs.2,50,000/-. Moreover, it is also not clear on what authority the plaintiff has instituted this suit when his brother allegedly gave the loan to the defendant and not by him. In his cross-examination also, the plaintiff has admitted that his brother did not tell him to institute the suit.

Considering all these aspects no substantial question is found available for admitting the appeal for hearing.

Considering thus, the appeal is not admitted being devoid of any substantial question of law involved therein and is disposed of accordingly.

Interim application, if any, also stands disposed of accordingly.

JUDGE

SATABDI DUTTA

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