



RSA-4966-2015 (O&M)

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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**RSA-4966-2015 (O&M)
Date of Decision : 11.09.2025**

Modan Singh

....Appellant

VERSUS

M/s Kumar Chand Janak Raj, through
Janak Raj (deceased) through LR's

....Respondent

CORAM : HON'BLE MS. JUSTICE MANDEEP PANNU

Present: Mr. P.K.S.Phoolka, Advocate for the appellant.

Mr. Prince Goyal, Advocate and
Mr. Vishwjeet Singh, Advocate for the respondent.

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MANDEEP PANNU,J.

1. Present Regular Second Appeal has been filed challenging the judgment and decree dated 24.03.2015 passed by the learned Additional District Judge (Fast Track Court), District Bathinda, whereby the appeal filed by the appellant was dismissed by upholding the judgment and decree dated 11.08.20214 passed by the learned Additional Civil Judge (Senior Division), Talwandi Sabo.

Brief Facts

2. The brief facts of the case are that the plaintiff/respondent filed a suit for recovery of a sum of ₹4,62,000/–, comprising ₹3,00,000/– being the principal amount and ₹1,62,000/– being the interest accrued thereon. It was pleaded by the plaintiff that the plaintiff-firm being a sole proprietorship concern had lent an



amount of ₹3,00,000/- in cash to the defendant-Modan Singh on 10.03.2010 for his household purposes in the presence of witness Satpal. The defendant had agreed to pay interest on the said amount at the rate of 1.5% per month. It was further pleaded that the defendant executed a pronote and receipt in favour of the plaintiff on the same date in lieu of having received the suit amount and put his signatures on the said pronote and receipt in the presence of witnesses. However, despite repeated requests made by the plaintiff, the defendant failed to repay the loan amount, which necessitated the filing of the present suit.

3. Upon notice, the defendant appeared and contested the suit. The defendant submitted that the suit is not maintainable and is without any cause of action. It was further contended that the plaintiff is doing the work of money lending without obtaining the requisite license. The defendant further pleaded that the suit was barred by limitation. It was also alleged that the plaintiff is not a sole proprietorship concern but an unregistered partnership firm, and therefore, the proprietor is not a proper person to file the present suit. It was specifically denied that the defendant had ever borrowed a sum of ₹3,00,000/- on 10.03.2010 or had executed any pronote or receipt in favour of the plaintiff. The alleged pronote and receipt were stated to be forged and fabricated documents. The defendant further alleged that the attesting witness of the pronote, namely Satpal, is the real brother of the plaintiff and earlier, on 04.06.2010, the said Satpal had issued a notice for recovery on the basis of a pronote and receipt dated 14.07.2008 for a sum of ₹4,00,000/- from the defendant, but no suit was filed on the basis of that pronote. When the limitation for filing the suit on the basis of the said pronote expired, the plaintiff, in collusion with his brother Satpal, forged the present pronote and



receipt against the defendant. On these premises, dismissal of the suit was prayed for.

4. On the basis of the pleadings of the parties, the learned trial Court framed the following issues:

1. Whether the plaintiff is entitled to recover the suit amount along with interest from the defendant? OPP
2. Whether the present suit is not maintainable in the present form? OPP
3. Whether no cause of action arose in favour of the plaintiff? OPD
4. Whether the suit of the plaintiff is time barred? OPD
5. Relief.

5. In order to prove his case, the plaintiff examined Satpal, attesting witness of the alleged pronote and receipt, as PW1. Janak Raj, sole proprietor of the plaintiff firm, appeared as PW2. Anil Kumar Gupta, handwriting and fingerprint expert, was examined as PW3. The plaintiff placed on record the original pronote and receipt dated 10.03.2010 as Ex.P1 and Ex.P2, photocopy of the Rokar Bahi as Ex.P3, photocopies of the Bahi Khata for the years 2009-10 to 2012-13 as Ex.P-4, P-5, P-5/A and Ex.P5/B, Punjab translation of Rokar Bahi Ex.P-6, Punjabi translation of Bahi Khata for the year 2009-10 to 2012-13 as Ex.P7 to Ex.P10, and thereafter closed his evidence.

6. In rebuttal, the defendant examined himself as DW1 and placed on record a copy of the legal notice, Ex.D1, and thereafter closed his evidence.

**Findings of the Trial Court**

7. The learned trial Court after hearing the parties and appreciating the evidence led by them decreed the suit of the plaintiff by observing that the plaintiff had been able to prove on record due execution of the pronote and receipt. The Court observed that although the defendant had taken the plea of forgery and fabrication, except for placing on record the photocopy of the legal notice allegedly issued by Advocate Subhash Chandra Garg, the defendant had failed to show that the said legal notice had been issued with regard to the present pronote and receipt.

8. It was further noticed that the defendant was taking contradictory stands. On one hand, in the written statement he denied his signatures upon the pronote and receipt, while on the other hand in his deposition before the Court he took the plea that one blank pronote which was lying with Satpal had been misused by the plaintiff for filing the present suit. The Court also placed reliance on the testimony of Anil Kumar Gupta, handwriting and fingerprint expert, who had proved that the signatures appearing on the pronote and receipt tallied with the specimen signatures of the defendant. With these observations, the trial Court decreed the suit of the plaintiff.

Findings of the First Appellate Court

9. Feeling aggrieved, the defendant preferred an appeal before the learned Additional District Judge (Fast Track Court), Bathinda. The learned Lower Appellate Court categorically observed that the plaintiff had duly proved advancement of loan by examining PW1 Satpal, the attesting witness of the pronote and receipt. PW1 deposed that he knew both the parties and that the defendant had obtained cash loan of ₹3,00,000/- from the plaintiff firm on 10.03.2010 in his presence and had agreed to pay interest at the rate of 1.5% per



month. PW1 further testified that after receiving the amount in cash, the defendant executed the pronote and receipt in favour of the plaintiff in his presence.

10. The Court observed that from the testimony of these witnesses it stood proved that the amount was borrowed by the defendant from the plaintiff, and after understanding the contents of the pronote, the defendant had put his signatures thereon. The witnesses had been cross-examined at length, but nothing had been brought on record to discredit their testimony. The specimen signatures of Modan Singh matched with the signatures appearing on the disputed pronote and receipt.

11. The plea of forgery and fabrication raised by the defendant was also considered. The lower appellate Court noted that although the defendant relied upon the plea that earlier also some legal notice had been issued regarding another pronote, but except for producing a photocopy of the said legal notice allegedly issued by Advocate Subhash Chandra Garg, no cogent evidence had been brought to connect the present disputed documents with that earlier transaction. Thus, the defendant had failed to show that the present documents had been forged to bring the suit within limitation. Concurring with the findings of the trial Court, the appeal was dismissed and the judgment and decree of the trial Court were upheld.

12. Feeling aggrieved, the appellant-defendant has preferred the present Regular Second Appeal.

13. Upon notice, respondent appeared through his counsel and contested the appeal.

Submissions of learned counsel for the parties

13. The learned counsel for the appellant/defendant argued that both the courts below had erred in relying upon the incredible testimony of the plaintiff's witnesses and had ignored the defence of the appellant. It was submitted that PW1



Satpal, the attesting witness of the pronote and receipt, is none else but the real brother of the plaintiff and had every reason to depose in favour of him. It was further argued that the defendant had denied his signatures on the receipt and had also taken the plea that the disputed document was blank at the time of signing and later on filled in by the plaintiff. Therefore, the testimony of the handwriting expert was of no consequence. It was further submitted that the photocopy of the legal notice placed on record by the defendant clearly showed that earlier also a notice was issued regarding some other pronote, but no action was taken thereon, and once the limitation for filing a suit on the basis of that pronote expired, the present pronote and receipt was fabricated bearing the signatures of the defendant.

14. On the other hand, learned counsel for the respondent/plaintiff submitted that there were concurrent findings of fact by both Courts below that the loan had been advanced by the plaintiff to the defendant in the presence of PW1 Satpal, who was duly examined and cross-examined. It was further argued that the defendant had taken contradictory stands denying his signatures in the written statement but admitting them during his deposition by saying that signatures had been obtained on blank papers. It was submitted that once the signatures were admitted, the burden was upon the defendant to prove that the documents had been fabricated. No such evidence had been led by the defendant except for placing on record a photocopy of one legal notice which had no connection with the disputed documents. It was thus prayed that the RSA be dismissed.

Findings

15. I have heard the learned counsel for the parties and gone through the record with their assistance. The case rests upon a factual matrix which has been discussed in detail by both the courts below. There are concurrent findings of fact



that the plaintiff advanced a loan to the defendant, that the pronote and receipt were executed in lieu thereof, and that the signatures of the defendant were duly proved by both oral and expert evidence.

16. The two objections raised by the defendant deserve consideration. Firstly, regarding the related witness PW1 Satpal. Merely because Satpal is the real brother of the plaintiff does not by itself render his testimony untrustworthy. It is well settled that relationship of a witness is not a ground to discard his testimony, if otherwise trustworthy. The testimony of PW1 was subjected to lengthy cross-examination, yet nothing substantial could be elicited to shake his version. His deposition remained consistent and corroborated the execution of the pronote and receipt. Therefore, this objection does not hold merit.

16. Secondly, regarding the legal notice issued earlier in connection with some other pronote. The defendant has only produced a photocopy of the said notice and failed to establish that the present disputed pronote and receipt were fabricated to overcome limitation. No witness was examined to prove the said notice. It is trite that once the signatures of the defendant on the present documents are proved, the burden shifts upon him to show that the documents are forged or fabricated. Except for the photocopy of the notice, no cogent evidence has been led. The courts below have rightly held that the plea of forgery rests on mere assumptions.

17. Legally also, once the execution of a document is admitted or the signatures thereon are proved, the burden lies heavily upon the party alleging forgery to establish the same. The defendant has not discharged this burden. The handwriting expert's report has corroborated the signatures of the defendant on the disputed documents. Thus, the concurrent findings of fact recorded by both the

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courts below are based on proper appreciation of evidence and do not call for interference in second appeal.

Conclusion

18. Accordingly, finding no illegality or perversity in the impugned judgments and decrees dated 11.08.2014 and 24.03.2015 passed by the Courts below, the present Regular Second Appeal is hereby dismissed. The concurrent findings of both the Courts below are upheld

19. Pending application(s), if any, also stands disposed of.

September 11, 2025
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(MANDEEP PANNU)
JUDGE

Whether speaking/non-speaking : Speaking
Whether reportable : Yes/No.