



RSA-3242-2025 (O&M)

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

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**RSA-3242-2025 (O&M)
Date of Decision : 09.12.2025**

Kuldeep Singh

....Appellant

VERSUS

Devi Dayal and another

....Respondents

CORAM : HON'BLE MRS. JUSTICE MANDEEP PANNU

Present: Mr. R.S.Mamli, Advocate for the appellant.

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MANDEEP PANNU, J (Oral).

1. Feeling aggrieved by the concurrent findings of the Courts below, the present Regular Second Appeal has been preferred by the defendant. The learned trial Court, vide judgment and decree dated 07.04.2017, decreed the suit of the plaintiffs for recovery, which judgment was affirmed by the learned lower appellate Court vide judgment and decree dated 22.07.2025.

Brief Facts

2. Briefly stated, the case of the plaintiffs is that they are commission agents dealing in sale and purchase of agricultural produce at New Grain Market, Kurukshetra, and the defendant was their regular customer who used to sell his agricultural produce through them and also used to take advances from them for agricultural needs. It is the pleading of the plaintiffs that all transactions between the parties were maintained in their regular account books in rokars, bahi khata, and rojnamcha and on 30.04.2011 the defendant borrowed a sum of ₹17,000/- from the plaintiffs and a sum of ₹15,358/- was debited in the account of the defendant,

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and the total amount was duly entered in the rojnamcha, acknowledging an outstanding balance of ₹2,58,000/- against the defendant. It is further pleaded that subsequent entries dated 27.07.2011, 28.11.2011 and 23.05.2012 were also made, and after adjustment of various receipts and commissions, an amount of ₹4,00,000/- remained outstanding against the defendant, despite repeated demands, compelling the plaintiffs to file the present suit for recovery along with *pendente lite* and future interest @ 12% per annum till realization.

3. In the written statement, the defendant took preliminary objections regarding maintainability, locus standi, cause of action, limitation, estoppel and mis-joinder of parties. The defendant denied having borrowed any amount from the plaintiffs and denied acknowledging any balance once or ever. It was pleaded that the signatures/thumb impressions appearing on the account entries were fraudulently obtained under the pretext of producing the books before the Income Tax Department, and that the plaintiffs had manipulated and forged the said entries to create a false liability. The defendant specifically disputed that he ever owed any amount to the plaintiffs and asserted that no amount was ever borrowed or settled on any of the dates mentioned by the plaintiffs.

4. The following issues were framed by the trial Court vide order dated 06.01.2015:

1. Whether the plaintiffs are entitled to decree for recovery of ₹4,00,000/- along with *pendente lite* and future interest? OPP
2. Whether the suit of the plaintiffs is not maintainable in the present form? OPD
3. Whether the plaintiff has no locus standi to file the present suit?

OPD

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4. Whether the plaintiff firm is a money-lending firm having no licence to do the business of money-lending? OPD

5. Relief.

5. In order to prove their case, the plaintiffs examined plaintiff No. 1 Devi Dayal as PW-1, who tendered his duly sworn affidavit Ex.PW1/A and reiterated the averments made in the plaint. The plaintiffs also examined Bhavesh Kumar, official of the Income Tax Department, as PW-2, who brought the summoned record pertaining to the income tax returns of the plaintiff firm for the financial years 2007-2008 to 2012-2013 and compared the same with photocopies Ex.P18 to Ex.P23 and stated them to be correct as per office record. PW-3 Ganga Ram Yadav, RDO, UBOI stepped into the witness box and produced the summoned record pertaining to account details of plaintiff firm and stated the same to be correct as per his office record. The plaintiffs also adduced documentary evidence Ex.P1 to Ex.P30 and Mark-A and Mark-B.

6. On the other hand, to rebut the case of the plaintiffs, the defendant examined himself as DW-1 and tendered his duly sworn affidavit Ex.DW1/A. He was cross-examined at length. The defendant also produced documentary evidence Ex.D1 to Ex.D7.

Findings of the trial Court

7. The learned Trial Court, after appreciating the oral and documentary evidence led by the parties, recorded the findings that the plaintiffs successfully proved that plaintiff No.1 is the sole proprietor of M/s Shiv Shakti Trading Company and that the business is a proprietorship concern engaged in commission agency, and not a partnership firm as alleged by the defendant. The Court held that the plaintiffs placed on record sufficient documentary evidence in the form of

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income tax returns Ex.P18 to Ex.P23, bank account opening form Ex.P25, and the order passed by the Excise and Taxation Officer Ex.P30, all of which corroborated the proprietorship status of the firm.

8. The Trial Court further found that the defendant was a regular customer of the plaintiffs and used to supply agricultural produce at the shop of the plaintiffs. It was proved through the account books Ex.P1 to Ex.P17 that the defendant used to borrow advances from the plaintiffs from time to time, and that the entries in the rokar, rojnamcha, khata and bahi accounts were duly maintained in the ordinary and regular course of business. The Court held that the signatures/thumb impressions of the defendant on the account entries amounted to acknowledgment of liability and that the plaintiffs had properly proved the entries through PW-1, PW-2 and PW-3. The Court rejected the plea of manipulation or fabrication of account entries, observing that the entries in the account books were further corroborated by the income tax return of the plaintiff firm and other documentary evidence.

9. The learned Trial Court also held that the plea of the defendant regarding non-maintainability of the suit on the ground that the plaintiffs were engaged in money lending without licence was without merit. It was concluded that the plaintiffs are engaged in commission agency business and advancing loan to farmers/customers in the regular course of such business does not amount to carrying on the business of money lending so as to attract the provisions of the Punjab Registration of Money Lenders Act. The Court also held that mere allegations of fraud and fabrication raised by the defendant were unsupported by any evidence and were insufficient to discharge the burden of proof.

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10. Upon overall consideration of the evidence, the Trial Court concluded that the plaintiffs had proved recovery of Rs. 4,00,000/- including principal and interest from the defendant, and therefore, decreed the suit with costs.

Findings of the Lower Appellate Court

11. The learned lower appellate court, after re-appreciating the entire oral and documentary evidence, affirmed the findings recorded by the learned trial Court. It was held that the plea of the defendant regarding the plaintiff firm being an unregistered partnership firm was without any substance, as the income tax returns Ex.P18 to Ex.P23 clearly reflected the plaintiff firm as a proprietorship concern and the defendant failed to rebut this evidence. The appellate court further observed that the order of the Excise and Taxation Officer Ex.P30 also corroborated the status of plaintiff No.2 as a proprietorship concern carrying on the business of commission agency. It was further noted that the defendant himself, during cross-examination, admitted that he had been selling his agricultural produce to the plaintiffs for many years and could not produce any material to show that the plaintiff firm was a partnership firm. The lower appellate court also affirmed the finding that the defendant had acknowledged his liability in the account books of the plaintiffs, including his signatures on Ex.P7 and the ledger entry Ex.P15, and that the bahi entries Ex.P1 to Ex.P17 had been duly proved by the plaintiffs and corroborated by the income tax returns Ex.P18 to Ex.P23 and balance sheets Ex.P27 to Ex.P29. The appellate court held that the defendant's allegations of manipulation and fraud in the account books were unsupported by any evidence and mere self-serving statements could not rebut the cogent evidence led by the plaintiffs. It was further held that since the defendant had acknowledged the liability on 30.04.2011, the suit filed on 22.04.2014 was well within the period

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of limitation. The appellate court also upheld the rate of interest awarded by the trial Court at 9% per annum, observing that the defendant himself admitted that the prevailing rate of interest in the market was the same. Concluding that the judgment of the learned trial Court was well reasoned, did not suffer from any infirmity or illegality, and was based on proper appreciation of evidence, the learned lower appellate court dismissed the appeal with costs.

12. Aggrieved by the concurrent findings of the Courts below, the appellant has preferred the present regular second appeal.

Submissions of learned counsel for the appellant

13. Learned counsel for the appellant argued that the impugned judgments and decrees passed by the Courts below are liable to be set aside. It was contended that both the Courts below have failed to appreciate the facts of the case and the documentary evidence produced by the appellant. It was argued that the plaintiff firm is an unregistered partnership firm and, therefore, the suit filed by the plaintiffs was barred under Section 69 of the Partnership Act. According to counsel, the plaintiffs have wrongly shown themselves to be proprietors, whereas the material on record allegedly proves that the firm is a partnership concern. It was further submitted that the plaintiffs did not produce complete bahi khatas, nor did they lead any cogent evidence to prove the entries recorded therein. It was argued that the alleged acknowledgments relied upon by the plaintiffs were beyond limitation and, therefore, of no legal consequence.

14. Learned counsel further submitted that the balance sheets produced by the plaintiffs were never filed before the Income Tax Department and therefore could not have been relied upon by the Courts below. It was argued that most of the entries in the account books pertain only to interest and, therefore, the same do

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not prove that any principal amount was recoverable from the appellant. It was further submitted that Form-J (Ex.D4) receipts issued to the appellant at the time of sale of crop were not properly accounted for by the plaintiffs and hence there was every reason to disbelieve the bahi khatahs produced in the case file. Learned counsel also submitted that the balance sheets were not proved on record and that even otherwise they were never submitted before the Income Tax authorities, and therefore, the Courts below erred in relying upon the same. It was contended that the law is well settled that the respondents have to stand on their own legs and cannot take benefit of any weakness in the defence of the appellant.

Findings of this Court

15. I have considered the arguments raised by learned counsel for the appellant and perused the impugned judgments and material available on record. However, I do not find myself in agreement with the contentions raised. Both the Courts below have returned concurrent findings of fact after appreciating oral as well as documentary evidence in detail. The Courts below have recorded categorical findings that the plaintiff firm is a proprietorship concern and not an unregistered partnership firm. These findings are based on income tax returns, bank documents, Excise and Taxation record (Ex.P30), and the evidence of PW1 to PW3. No contrary evidence has been produced by the appellant to rebut these findings.

16. Further, the Courts below have extensively examined the bahi entries, rojnamcha and khata records (Ex.P1 to Ex.P17), and found them to be duly maintained in the ordinary course of business. The signatures of the defendant on Ex.P7 and corresponding entries in Ex.P15 have been admitted by the defendant himself in his written statement as well as during his cross-examination. Once the

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acknowledgment of liability dated 30.04.2011 stands admitted, the suit filed on 22.04.2014 is clearly within limitation. The defence that the signatures were obtained fraudulently has been rightly rejected by the Courts below, as mere oral allegations cannot displace positive documentary evidence.

17. The lower Appellate Court has also rightly held that merely because the plaintiffs advanced money to a customer does not make them money lenders, as the transactions are incidental to their work as commission agents. The findings recorded on Issues No.1 to 5 are well reasoned, supported by evidence, and do not suffer from any illegality or perversity.

Conclusion

18. In view of the above and applying the settled legal principles, this Court finds that the impugned judgments are based on concurrent findings of fact, which cannot be interfered with in second appeal unless shown to be perverse. Accordingly, the present RSA is dismissed in limine, without issuing notice to the respondents.

19. Pending applications, if any, also stand disposed off.

December 09, 2025

(MANDEEP PANNU)

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JUDGE

Whether speaking/non-speaking : Speaking

Whether reportable : Yes/No