IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

R.S.A. No. 58 of 1989 (O&M)

Date of decision : April 09, 2015

Zile Singh

... Appellant

vs.

Sultan Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Alok Jain, Advocate
for the appellant.

None for the respondents.

Surinder Gupta, J

Plaintiff-appellant Zile Singh filed a suit for recovery of ₹10,800/- which included ₹8000/- towards principal and ₹2,880/- towards interest @ 1% per month.

As per plaintiff, Rama Nand, father of defendant-respondent was advanced a sum of ₹8000/- on 1.3.1981 and he executed a pro-note Ex.PW5/A and receipt Ex.PW5/B in favour of appellant. Respondent contested the case of plaintiff, *inter alia*, pleading that Rama Nand never took any loan or executed any receipt dated 1.3.1981 in favour of plaintiff. The pro-note and receipt alleged to have been executed by Rama Nand on 1.3.1981 were dubbed as forged and fictitious document. It was alleged that signature of Rama Nand have been appended on the pro-note and receipt by transferring (stealing) the revenue stamps from some other document.

The suit was decreed by Sub Judge Ist Class, Jhajjar vide judgment and decree dated 17.10.1987 which was set aside in appeal by Additional District Judge, Rohtak, holding the pro-note and receipt a forged document.

This appeal has been filed against the judgment and decree of appellate court below.

I have heard learned counsel for appellant and have perused the lower court record with his assistance.

Before proceeding further, it will be relevant to have a look on the observations made by first appellate court while holding pro-note and receipt dated 1.3.1981 a forged document. The appellate court after carefully perusing the pro-note and receipt has given detailed reasons for reaching the conclusion that stamp on the pro-note and receipt Ex.PW5/A and Ex.PW5/B were picked up from some other document and pasted on this pro-note and receipt. In para no.10 to 14 of the judgment, first appellate court has observed as follows :-

> *"10. I have carefully perused the impugned pronote and receipt. A naked eye but careful scrutiny thereof corroborates the defendants version that the alleged pronote and receipt have been forged by lifting revenue stamps with alleged signatures of Rama Nand from some other document and by affixing the same on the impugned pronote and receipt. The revenue stamps have been pasted with extra gum on the pronote and receipt. Their margins have also become dirty in the process. Perusal of pronote and receipt from the back also corroborates this conclusion. The reasons given by Som Nath Aggarwal DW1 in his report Ex.DW1/5 are also very cogent and plausible and support this version of the defendants. It may be noted here that initially the plaintiff had engaged Shri Som Nath Aggarwal as an Expert in this case and also got the file inspected on 20.2.1985 vide application Ex.P1, on which the plaintiff admitted his signatures. However, it appears that Som Nath Aggarwal had opinion against the plaintiff and so the plaintiff availed of the services of another Expert Shri Baldev Singh.*
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> *11. It is quite significant to note that there are four revenue stamps on impugned pronote and one revenue stamp on the receipt. The entire impugned signatures of Rama Nand are on the revenue stamps affixed on the pronote and no part of the said signatures extends beyond the stamps on the pronote-form. Thus, the said stamps have not been validly cancelled and the*

signatures cannot be said to be validly appended and the execution of pronote is also vitiated. This circumstance also corroborates the view that the revenue stamps were lifted from some other document and then affixed on the pronote.

12. In this context, it is also highly significant to note that ink has not gone through the perforation holes of the revenue stamps to the pronote paper. If the signatures had been affixed after pasting the revenue stamps on the pronote, then the ink whole appending the signatures would have definitely percolated through the perforation holes, to the pronote form. The absence of such ink also corroborates the aforesaid conclusion.

13. The revenue stamps affixed on the receipt is also in no better position and also rather supports the aforesaid conclusion. Complete signatures do not appear on this revenue stamp. The initial part of the Urdu signatures was on the document from where this revenue stamp was lifted and so the said part was left on the same document. However, after affixing this revenue stamp on the receipt, the said part was completed with the different pen and ink by writing letter "Ray" and part of the letter "Alf" on the receipt adjacent to the revenue stamp. Even Baldev Singh PW admitted that there is a slight difference in the ink of letter "Ray" from the ink used in the rest of the letters. However, Baldev Singh tried to explain this difference by stating that the said difference is deceptive because of difference of colour of background. However, in fact it is not so because even the pen used is different as the width of letter (Ray) is quite less from the width of other letters. Similarly, the ending letter "DAAL" of "baklam khud" was also left on the original document and is not there in the signatures on the receipt and only some ink thereof appears on the margins of the stamps. These circumstances also corroborate the aforesaid conclusion.

14. The final blow to the plaintiffs' case comes from the fact *that revenue stamps on the pronote were not affixed intelligently and left a trace of the forgery. The four revenue stamps are in two rows of the two stamps each. The upper two stamps are dis-united from each other and in the process of re-affixing the same on the pronote after removal of the same from the original document, a grave mistake was committed. The upper stamps got exchanged in their sides i.e. upper left stamp was to be affixed on the right upper side, and upper right stamp was to be affixed on upper left side. For this conclusion, it has to be noticed that there is no dot in either of the two letters (NOON) used in the word 'Nand' in the signatures on the pronote stamp, while one dot appears in each of the said two letters in the signatures on receipt stamp. Similarly two dots of letter "KAAF" of word 'Bakalam' are not there in the pronote signatures and similarly, dot of letter "KHEY" of word 'Khud' is not there. There dots now appear at different places due to wrong affixing of the upper stamps. The dot of first letter "NOON" of word "Nand" appears on extreme left side of upper left revenue stamp and if this revenue stamp had been affixed on the upper right side, this dot would have come over the aforesaid "NOON". The dots of second letter "NOON" and the letters "KAF" and 'Khey' appear on the upper right side stamp and said dots would have appeared on proper places if the said upper right stamp had been affixed on the left side. Now, in the stamps as presently affixed, dots appear over the letters 'Ray' and "Meem" of word 'Rama' and over the letter 'DAAL' of word 'Khud'. These dots could not be put at the present places if the signatures had been genuinely affixed on the stamps after affixing the same on the pronote. Men may lie but circumstances do not. The aforesaid circumstances and particularly the circumstance of affixing of upper revenue stamps on wrong sides thereby bringing the dots at wrong places leave no manner of doubt that the pronote and receipt were not executed by Rama Nand and in fact revenue* *stamps bearing his alleged signatures were removed from some other document and affixed on the impugned pronote and receipt."*

Learned counsel for appellant has tried to meet the above observations of the first appellate court submitting that the first appellate court has misdirected itself while observing that the revenue stamp on the pro-note and receipt were affixed by using glue thereby raising suspicion that these stamps have been removed from some other document and pasted on the pro-note and receipt dated 1.3.1981.

On careful inspection of the revenue stamp with the assistance of learned counsel for appellant, I find no reason to disagree with the observations and reasoning given by the first appellate court that the four revenue stamps affixed on the pro-note and one stamp affixed on the receipt were removed from somewhere and affixed on the pro-note and receipt Ex.PW5/A and Ex.PW5/B. The appellant appears to be a very shrewd person, who is having litigation with some other persons also in context of advancing of loan to them. He could not be unaware that when the signatures are obtained on a revenue stamp, some portion of it should come on the paper of pro-note and receipt. Perusal of the signatures on the revenue stamp on the pro-note shows the use of other pen to complete the signature, lack of continuity, missing words etc. Moreover, while appending signature, the words *"ba kalam khud'* are not written. On the revenue stamp on pro-note and receipt, the words *'ba kalam khud'* is also present which further proves that these stamps were removed from a document where Rama Nand had scribed some sentence in his handwriting and then signed the same after writing the words '*baklam khud'*. The first word of his name i.e. *"re"* and *"alaf"* are missing on the revenue stamp affixed on the receipt. In the same manner while writing the word *"ba kalam khud'* the alphabet '*Daal'* also got missed. In the receipt Ex.PW5/B, alphabet *"re"* appears to have been incorporated with some other ink. Similarly, the use of some other pen to complete the signature on the revenue stamp affixed on Ex.PW5/A is also visible. Perusal of pro-note and receipt shows that a very shrewd attempt was made to create this document. Perusal of *bahi* entry Ex.PW4/A, which was produced by PW-4 Mange

Ram, shows that on the revenue stamp Rama Nand had written *"moblik 1272 rupay rokre wasul paye, ba kalam khud, Rama Nand"* The signatures on the revenue stamp on Ex.PW4/A and the writing start on the paper, continued on the revenue stamp and then end on the paper. While on the revenue stamp affixed on pro-note and receipt the signature and words *"ba kalam khud"* is written on the revenue stamp. First appellate court has elaborately scrutinized the pro-note and receipt and rightly placed reliance on the report of expert examined by the respondent, who has given detailed and genuine reasons to reach the conclusion that these pro-note and receipt were not executed in ordinary course of nature by Rama Nand.

On perusal of lower court file and judgment of first appellate court below, I find no factual or legal infirmity therein calling for interference.

No substantial question of law requiring determination arises in this appeal.

This appeal has no merits and is dismissed.

April 09, 2015 **(Surinder Gupta)**
deepak **Judge**