

Regular Second Appeal No.3888 of 2006 (O&M) { 1 }

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

R.S.A.No.3888 of 2006 (O&M)
Date of Decision: August 20, 2015

Manjit Singh

...Appellant

Versus

M/s Satinder Singh Hardeep Singh, Commission Agents, Surja Ram Market,
Malout & another

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr.Surinder Garg, Advocate,
for the appellant.

Mr.B.S.Sidhu, Advocate,
for respondent No.1.

AMIT RAWAL, J. (Oral)

The challenge in the present Regular Second Appeal is to the impugned judgments and decrees, whereby the suit for recovery of ₹2,35,000/- has been decreed, which include the element of principal and interest and future interest @ 6% per annum.

Mr.Surinder Garg, learned counsel appearing on behalf of the appellant-defendant No.1 submits that both the Courts below have committed an illegality and perversity in not noticing the following submissions:-

- a) The plaintiff has not stepped into the witness box;
- b) The suit was *ex-facie* time barred as it was filed on 28.5.2001 and the last entry was of 20.11.1998;
- c) The Bahi khatas have not been proved in accordance with law.

Mr.B.S.Sidhu, learned counsel appearing on behalf of respondent No.1-plaintiff submits that in order to prove the Bahi khatas, the plaintiff has examined Munim/Accountant, who was conversant with the transactions of the plaintiff firm and of defendant. It is settled law that the person, who has the knowledge of the transactions, is the best witness to be examined. The Bahi khatas have been duly proved, which were not seriously objected to when they were exhibited through the testimony of PW-1 Ashim Kumar Munim and the suit for recovery was filed within limitation.

I have heard the learned counsel for the parties and appraised the paper book.

Ex.P26 is the entry dated 20.11.1998 and the suit has been filed on 28.5.2001, thus, it is within the period of limitation.

As regards the contention with regard to non-examination of the plaintiff, the Courts below have found that it was the Munim/Manager of the firm, who had been examined as he was conversant and dealing with the accounts of the firm and rightly so, he had the knowledge with regard to the transactions and, therefore, adverse inference was liable to be drawn against the appellant-defendant, who has not objected to the exhibition of the documents, i.e., Bahi khatas, which were exhibited during the testimony

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of PW-1 Ashim Kumar. Both the Courts below have rendered a finding of fact and law, based on appreciation of oral and documentary evidence.

In view of what has been observed above, there is no illegality and perversity in the impugned judgments and decrees, much less, no substantial question of law arises for determination in the present appeal.

Accordingly, the appeal is dismissed.

August 20, 2015
ramesh

(AMIT RAWAL)
JUDGE