

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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RSA No. 1187 of 2011 (O&M)

Date of decision: 28.08.2015

Tirath Singh

...APPELLANT

VS.

M/s Paramjit Singh and others

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. L.S.Sidhu, Advocate
for the appellant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this appeal is to the judgments and decree passed by the Courts below vide which the suit preferred by the appellant-plaintiff for recovery of an amount of ₹ 1,55,000/- i.e. ₹ 1,18,500/- principal amount plus ₹ 36,000/- as interest calculated at the rate of ₹ 12 ½ per annum up to the filing of the suit with pendente lite and future interest till realization on the basis of the receipt dated 26.08.2004, stands dismissed.

It is the contention of the counsel for the appellant that the appellant-plaintiff has been able to prove the execution of the receipt dated 26.08.2004 Ex. P1, which is on the letter pad of the respondent No. 1-defendant No. 1 firm i.e. M/s Paramjit Singh Gagandeep Singh, Commission Agents, Dharamkot, Tehsil and District Moga. The loan was taken by Sh. Paramjit Singh, who was one of the partners, the other being Gagandeep Singh-respondent No. 2. He states that since the receipt has

been duly proved, the liability of the respondent-partnership firm cannot be shirked from. He thus, contends that the dismissal of the suit and the appeal by the Courts below is on erroneous consideration of facts and law and, therefore, deserves to be set aside. He also asserts that an application has been filed today for adducing additional evidence, by which the death certificate of Paramjit Singh as also the certified copy of the partnership firm M/s Paramjit Singh Gagandeep Singh, Commission Agents, Dharamkot, Tehsil and District Moga-respondent No. 1 is being sought to be placed on record and had further prayed for placing on record a judgment of this Court.

I have considered the submissions made by the counsel for the appellant-plaintiff and have gone through the judgments passed by the Courts below with the assistance of the counsel but I am afraid that the submissions, as put forth by the counsel for the appellant-plaintiff, cannot be accepted in the light of the concurrent findings recorded by the Courts below that the appellant-plaintiff has not been able to prove that respondent No. 1-defendant No. 1 is a partnership firm and that it did not dissolve on the death of Paramjit Singh, one of the partners of the firm. These are other two basic things, which are required to be proved for the claim to succeed.

The production of the death certificate and the certified copy of the partnership deed, at this belated stage, cannot be, by way of adducing additional evidence, permitted especially when there is no explanation as to why the same were not produced at the stage of trial especially when both these documents are public documents, which could have easily been obtained by the appellant-plaintiff. There being no just and reasonable explanation for non-production of the said documents at the time of the trial,

even if such an application is being moved, as has been asserted by the counsel for the appellant-plaintiff, the same cannot be permitted especially when the present appeal was filed on 28.02.2011 and since then, except for adjournments, nothing has been done on behalf of the counsel for the appellant-plaintiff. Since more than 4 ½ years have passed from the date of filing of the appeal and the steps, if any, should have been taken assuming the same were permissible for adducing additional evidence at the earliest moment available.

Finding no merit in the present appeal, the same stands dismissed especially when there is no substantial question of law which arises for consideration in this appeal.

August 28, 2015
pj

(AUGUSTINE GEORGE MASIH)
JUDGE