

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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*C.M. No. 984-C of 2011 &
RSA No. 357 of 2011 (O&M)*

Date of decision: 09.10.2015

M/s Surat Mal Nathu Ram and another

....APPELLANTS

VERSUS

Shashi Rani

....RESPONDENT

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

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

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this appeal is to the judgment and decree passed by the Additional Civil Judge (Senior Division), Faridkot dated 12.04.2008, vide which the suit for recovery of the respondent-plaintiff stands decreed against the appellants and the appeal preferred against the same has been dismissed on 20.09.2010 by the District Judge, Faridkot.

It is the contention of the learned counsel for the appellants that the Courts below have not properly appreciated the evidence, which has been brought on record by the parties. He contends that the respondent-plaintiff has herself admitted that she had received a cheque bearing signatures of the appellant No. 2-defendant No. 2-Om Parkash, which was deposited in her bank account and further in the income-tax return also, she

had reflected the same. He, thus, contends that once the factum of receipt of the amount has been accepted, the findings, as recorded by the Courts below, cannot be sustained.

This contention of the learned counsel for the appellants cannot be accepted in the light of the fact that it has come on record on the basis of the evidence of PW1-Prem Kumar Sharma, who has appeared as a witness and is an employee of the Punjab National Bank, Jaitu, where the cheque Ex. P1 was deposited and the statement of account, Ex. P4 also reflects the same. In his statement, he has specifically stated that the cheque was issued by Om Parkash in favour of the respondent-plaintiff and the same was also deposited in her account but the same was withdrawn straightway by way of bearer cheque and the cash was received by appellant No. 2-defendant No. 2-Om Parkash. The signatures of Om Parkash on the backside of the bearer cheque have also not been disputed by Om Parkash. This clearly establishes that although the cheque was issued in the name of the respondent-plaintiff but actually the said amount, although through the process of the bank account of the respondent-plaintiff, had again been received by Om Parkash and actually the same has not been utilized by the respondent-plaintiff nor was it available to her for utilization.

As regards the income-tax return that also is a process, which is dependent upon the bank entries and, therefore, the same have been reflected in the returns, which have been produced as evidence on record Exs. D2 and D3. The husband of the respondent-plaintiff, namely, Baldev Krishan-PW4 has corroborated the statement of Shashi Rani-respondent-plaintiff, who appeared as PW3, where she had withstood the cross-examination and nothing has been brought on record which would impeach

her credibility. The conclusions drawn by the Courts below with regard to the fact that normally in HUF family business, the ladies are usually sleeping partners and are mere signatories at the whims and fancies of the male counterparts, cannot be said to be incorrect keeping in view the facts and circumstances of the present case, which amply justifies and proves such a situation.

In view of the above, I do not find any merit in the present appeal which would call for any interference by this Court.

There being concurrent findings recorded by the Courts below on the facts of the case, which have been found to be just and reasonable, there is no illegality in the impugned judgments passed by the Courts below. Further, there is no substantial question of law in the present appeal, which requires consideration of this Court.

In view of the above, finding no merit in the present appeal, the same stands dismissed.

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In view of the dismissal of the main appeal, no separate orders are required to be passed in this application for stay and, therefore, the same stands dismissed.

October 09, 2015
pj

(AUGUSTINE GEORGE MASIH)
JUDGE