

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

RSA No.3463 of 2012 (O&M)

Date of decision : 02.02.2015

M/s Hotel Sheetal Palace

...Appellant

Versus

M/s Inder Singh Harjit Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. B.D. Sharma, Advocate
for the appellant.

Mr. Veneet Sharma, Advocate
for the respondent.

AMIT RAWAL, J. (Oral)

This Regular Second Appeal is directed at the instance of the appellant-defendant against the judgment and decree of the Lower Appellate Court, whereby the suit of the respondent-plaintiff for recovery of ₹29,350/- along with interest @ 12% P.A. has been decreed in toto.

Mr. B.D. Sharma, learned counsel for the appellant-defendant, in support of grounds of appeal, submits that the Lower Appellate Court has committed illegality and perversity in setting aside the judgment and decree of the trial Court. The trial Court, on the basis of the oral and documentary evidence, much less, on the premise that the respondent-plaintiff had not produced the books of account partly decreed the suit of the respondent-plaintiff to the tune of ₹580/-. He further submits that since no books of account had been produced, Lower Appellate Court has erroneously decreed the suit of the respondent-plaintiff.

Mr. Veneet Sharma, learned counsel for respondent-plaintiff, *inter-alia*, refers the findings of the Lower Appellate Court at page 30 para 9, wherein the witnesses of the appellant-defendant have unequivocally admitted the entries made in the bills as well as the supply of the 10 tins of ghee vide bill Ex.D5 and endorsement was also of cash, which was not proved as it was on the carbon copy.

In view of the fact that once there is an admission by the defendant, the appellant-defendant cannot be permitted to wriggle out from such admission at this stage.

Lower Appellate Court, after examining the oral and documentary evidence, has rightly decreed the suit of the respondent-plaintiff for a sum of ₹29,350/- along with interest @ 12% p.a.

No fault can be found with the aforementioned findings.

There is no illegality and perversity in the findings recorded by the Courts below which are based on the facts and law.

No substantial question of law arises for adjudication of the present appeal.

Accordingly, the present appeal is dismissed.

02.02.2015

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**(AMIT RAWAL)
JUDGE**