IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.3694 of 2012 (O&M)
Date of decision: 7.8.2015

Om Parkash

..... Appellant

Versus

Sube Singh

......Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Mani Ram Verma, Advocate, for the appellant.

RAJESH BINDAL, J

The plaintiff is before this Court against concurrent findings of fact recorded by both the learned courts below, whereby the suit filed by him for recovery of ₹ 56,949/-, was dismissed.

Learned counsel for the appellant submitted that the respondent/defendant had raised a loan from the appellant, for which there was entry in the Bahi, which was duly thumb marked by him. As the amount was not paid, the suit was filed. In the written statement filed by the respondent/defendant, he admitted raising of loan. His stand that part of the loan amount was returned, was also found to be true from the copy of the Bahi produced by the appellant/plaintiff. Hence, the claim of the appellant deserves to be accepted. As regards thumb impression of the respondent/defendant in the Bahi is concerned, there is a report of the expert, which was not controverted by the respondent/defendant by producing any expert. In the light of the aforesaid material on record, findings recorded by the learned courts below deserve to be set aside.

After hearing learned counsel for the appellant, I do not find any merit in the submissions made.

In the case in hand, the trial court had dismissed the suit, *inter alia*, on the ground that the appellant was not having a licence under the Punjab Registration of Money Lenders Act, 1938. However, the learned lower appellate court found that the evidence led by the appellant in support of his case was not trustworthy. The Bahi entry, on which thumb impression

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of the respondent/defendant was sought to be claimed was not worth reliance, as the thumb impression thereon was smudged, which could not be compared with his sample thumb impression. The submission of the appellant that the respondent/defendant had admitted in his written statement about raising of loan is of no consequence, as he explained regarding return of loan and also that he had never raised loan of ₹ 50,300/-, as was sought to be claimed by way of Bahi entry.

In the light of the aforesaid material on record, in my opinion, the findings recorded by the learned courts below cannot be said to be perverse. No substantial question of law arises. The appeal is accordingly dismissed.

(RAJESH BINDAL)
JUDGE

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