

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

**RSA No.5307 of 2012(O&M)
Date of Decision: 11.08.2015**

Charanjit Kaur

..... Appellant

Vs.

Gurbachan Singh

..... Respondent

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

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. V.K. Shukla, Advocate
for the appellant.

Mr. P.L. Singla, Advocate
for the respondent.

ARUN PALLI, J.(ORAL)

Vide judgment and decree dated 12.09.2011, the suit filed by respondent Gurbachan Singh for recovery of a sum of ₹ 5,57,194/- was decreed by the Trial Court. Appeal preferred against the said decree failed and was dismissed on 09.08.2012. This is how, plaintiff is before this court, in this Regular Second Appeal. Parties to the lis, hereinafter, would be referred to by their original positions in the suit.

In short, plaintiff prayed for a decree for a sum of ₹ 5,57,194/-, i.e. ₹ 3,50,000/- as principal and ₹ 2,07,194/- towards interest. It was pleaded that defendant had obtained loan of ₹ 3,50,000/- from the plaintiff and, in lieu thereof, defendant had executed the pronote and receipt dated

30.10.2002 in favour of the plaintiff along with interest @ 2% per month. However, nothing was paid either towards principal or interest.

In defence, it was pleaded, inter alia, that the alleged pronote dated 30.10.2002 was forged and fabricated. It was maintained that defendant never obtained loan from the plaintiff. However, plaintiff happened to be a Commission Agent and husband of the plaintiff; namely, Balwinder Singh, who died about nine years ago, used to sell his crops through his commission agency. Post her husband's death, defendant started leasing out her agricultural land and stopped cultivation therefore, neither anything was due against defendant nor her late husband.

On a consideration of the matter in issue and the evidence on record, the learned trial court concluded that execution of pronote (Ex.P1) and receipt (Ex.P2) were duly proved by the plaintiff. Marginal witness i.e. Sadhu Singh (PW 1) and scribe Jagraj Singh (PW 2), duly deposed as regards execution of these documents by the defendant. Plaintiff himself appeared in the witness box in support of his claim as PW 3 and proved his case. In rebuttal, defendant herself stepped into the witness box as DW 1. However, there was no independent corroboration to the testimony of DW 1 that the documents i.e. pronote and receipt, were indeed forged and fabricated. That being so, the

suit filed by the plaintiff was decreed.

Being aggrieved against the said decree, defendant preferred an appeal. First Appellate Court reviewed the matter in issue, evidence on record and, on an analysis thereof, concurred with the findings recorded by the trial court. Accordingly, the appeal was dismissed.

I have heard the learned counsel for the parties and perused the record.

Learned counsel for the defendant simply seeks to reiterate the submissions that were advanced before the courts below and rejected after a due and comprehensive consideration. No other argument was raised.

On a due and thoughtful consideration of the matter in issue, I am of the considered view that the appeal is devoid of merit and is, thus, liable to be dismissed, for the reasons that are being recorded hereinafter.

Needless to assert, for plaintiff to succeed, he was required to prove that a sum of ₹ 3,50,000/- was indeed obtained by the defendant by way of loan. Defendant was purported to have executed the pronote (Ex. P1) and receipt (Ex.P2) dated 30.10.2002. The execution of these documents was duly proved by examining its attesting witnesses; namely, Sadhu Singh (PW1) and scribe Jagraj Singh (PW2). Both the witnesses testified that defendant had indeed borrowed a sum of ₹ 3,50,000/- from the plaintiff. No

evidence was led, least cogent, to prove that these documents were forged and fabricated. Nothing was brought on record to show that either the plaintiff or Sadhu Singh (PW 1) and Jagraj Singh (PW 2) had any enmity with the plaintiff. Concededly, defendant did not lodge any complaint against the plaintiff as also the attesting witness and the scribe, if they had indeed forged these documents.

Learned counsel for the appellant could not point out as to how the findings/conclusions that have concurrently been arrived at by both the courts below were either contrary to the position on record or suffered from any material illegality.

In the wake of the position as set out above, there hardly exists any ground, least plausible in law, to interfere with the decree being assailed in the present appeal. No question of law, much less any substantial question of law, arises for consideration. Appeal being devoid of merit is, accordingly, dismissed.

August 11, 2015
Harish Kumar

(ARUN PALLI)
JUDGE