

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

RSA No. 1070 of 2013(O&M)
Date of decision :January 9, 2015

Jiwa Singh

..... Appellant

Versus

M/s Bihari Lal and Co.and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. G. S. Sidhu, Advocate
for the appellant.

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?

Amit Rawal, J (oral).
CM No. 2822-C of 2013

This is an application under Section 5 of Limitation Act read with Section 151 of the Code of Civil Procedure duly supported by an affidavit seeking condonation of delay of 111 days in filing the appeal.

For the reasons stated in the application, application is allowed. Delay of 111 days in filing the appeal is condoned.

CM No.2820-C of 2013

This is an application under Section 151 CPC for exemption from filing certified copy of judgment and decreed dated 27.7.2010.

C.M.is allowed.

Exemption granted.

RSA No. 1070 of 2013(O&M)

The Regular Second Appeal at the instance of the appellant-defendant is against the judgment and decrees of both the courts below whereby suit of the respondent-plaintiff qua recovery of sum of ₹2,10,450/- as principal along with interest ₹73,972/- @ of 1% from the date of decision till decision of suit and with future interest @ of 6% per annum from the date of decision till realization of the decretal amount has been decreed and counter claim of the appellant-defendant had been dismissed.

The claim of the respondent-plaintiff was based on pronote and receipt date 25.12.1997 Exs. P-1 and P-2. Before the trial court at the request of the defendant, the trial Court vide order dated 19.5.2003 for thorough examination and comparison with original sought report from Nasik India Security Press and as per the report of the said Laboratory Ex. P-1 and P-2 were found genuine. The execution of the pronote was also proved through testimony of attesting witness i.e. PW-2 Milkhi Ram.

Learned counsel for the appellant submits that pronote allegedly written by the plaintiff was not genuine document and the plaintiff miserably failed to prove the document and according to the version of the plaintiff the loan was given to in presence of one Bihari Lal and Milkhi Ram but only one witness Milkhi Ram was examined as PW-2 whereas Bihari Lal was not examined. He further submitted that to prove the genuineness of the

pronote both the witnesses should have been examined and by examining one witness right of the plaintiff has been prejudiced. He further submitted that on perusing the pronote and receipt it revealed that there are four thumb impressions on the pronote i.e. two on the pronote and two on the receipt and it was nowhere mentioned on the pronote that thumb impressions belong to the appellant-defendant and even the attesting witness PW-2 Milkhi Ram did not say before the Court that the thumb impression belong to the defendant. It is further submitted that no handwriting expert had been examined by the plaintiff to prove the thumb impression.

I have heard learned counsel for the appellant-defendant and appraised the impugned judgment and decree. The aforementioned contentions of the learned counsel are devoid of merit for the simple reason that pronote and receipt dated 25.12.1997, as already noticed above was got examined through Nasik India Security Press and as per the said report the pronote had been found to be genuine. I have gone through the Grounds of Appeal filed by the appellant-defendant before the lower appellate court and as well as before this Court, there is no challenge to the findings rendered by the trial court in this regard. As per provisions of Section 68 of the Evidence Act the execution of the document can be proved by examination of one witness. It is not essential that both the witnesses should be examined. In the instant case PW-2 Milkhi Ram the attesting witness to the pronote had already been examined who proved the execution of the pronote and receipt Ex. P-1 and P-2 and the appellant-defendant had not been able to cause

any dent in the testimony of the said witness.

Both the Courts below have rendered a finding of fact and law after appreciating the both oral and documentary evidence. I do not find any illegality or perversity in the aforementioned judgments and decrees of the courts below.

No substantial question of law arise for determination by this Court.

Accordingly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

January 9 , 2015
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