

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

RSA No.1450 of 2013(O&M)
DATE OF DECISION:10.02.2015

Gurdeep Singh

...Appellant

Vs.

M/s Lakhpat Rai Lamchham Dass

...Respondent

CORAM:- HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr.Kamal Narula, Advocate
for the appellant.

AMIT RAWAL, J.(ORAL)

CM No.3841-C of 2013

This is an application under Section 151 CPC for exemption from filing the certified copy. Application is allowed, subject to just all exceptions.

CM No.3842-C of 2013

For the reasons mentioned in the application, which is supported by an affidavit, delay in filing the appeal is condoned.

Application is disposed of.

CM No.3843-C of 2013

For the reasons mentioned in the application, which is supported by an affidavit, delay in refilling the appeal is condoned.

Application is disposed of.

RSA No.1450 of 2013

This Regular Second Appeal is at the instance of appellant-plaintiff directed against the judgment and decree of the trial Court dated 25.01.2010, whereby the suit for rendition of account has been dismissed and appeal filed against the said judgment and decree has also been dismissed.

Mr.Kamal Narula, learned counsel appearing on behalf of appellant-plaintiff submits that trial Court has dismissed the suit on the ground that the appellant-plaintiff did not appear for his cross examination. Despite, in appeal the appellant-plaintiff placed on record the document to prove that non-appearance for cross-examination was not wilful but owing to the fact that his daughter was not keeping well and he had to take the daughter to the doctor. However, the appellant-plaintiff failed to move an appropriate application to bring on record the said document.

I am afraid the arguments of the learned counsel for the appellant-plaintiff is devoid of merit and hence the appeal is liable to be dismissed.

It has come on record that the appellant/plaintiff, despite, availing a number of opportunities for offering himself for cross-examination did not appear. No zimini orders have been placed on record to show that throughout the period of absence, the appellant-plaintiff had to attend to his daughter. In the absence of any cogent evidence on record, the appellant-plaintiff has failed to prove a categoric averment in the plaint. The suit of the appellant-plaintiff has rightly been dismissed. No fault can be found in the findings of the trial Court as well as appellate Court. Both the Courts have rendered a finding of factual law.

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

Accordingly, the appeal is dismissed.

10.02.2015
rimpal

(AMIT RAWAL)
JUDGE