

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Regular Second Appeal No. 3288 of 2013 (O&M)
Date of decision: 4.5.2015

Surinder Kumar

.. Appellant

v.

Bikkar Singh

.. Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Jasbir Rattan, Advocate for the appellant.

...

Rajesh Bindal J.

The defendant filed the present appeal impugning the judgments and decrees of both the courts below, whereby the suit filed by the respondent was partly decreed for recovery of ₹ 2,58,000/- plus interest. Along with the appeal, an application seeking to sue as an indigent person has also been filed.

It has been claimed that the appellant does not have any moveable or immoveable property. Even before the lower appellate court, he was permitted to sue as an indigent person.

For taking the view on the application filed by the appellant seeking permission to sue as an indigent person, learned counsel for the appellant addressed brief arguments even on merits of the controversy involved. It was sought to be claimed that the suit was filed claiming ₹ 3,17,100/-, i.e., ₹ 2,58,000/- as principal and ₹ 59,100/- as interest and further ₹ 38,100/-, i.e., ₹ 31,000/- as principal and ₹ 7,100/- as interest. The claim of the respondent-plaintiff was based on a pronote. The trial court accepted the plea of the respondent-plaintiff pertaining to advancement of loan of ₹ 2,58,000/- and decreed the suit to that extent along with interest,

whereas the claim pertaining to ₹ 31,000/- along with interest was declined. The judgments are sought to be impugned on the ground that once part of the claim was not found to be tenable, the suit was required to be dismissed in entirety. However, I do not find any merit in the submissions made. The execution of pronote for ₹ 2,58,000/- is not even in dispute. The suit has been decreed by the courts below only to that extent while granting lesser rate of interest, than what was claimed. The relief of ₹ 31,000/- along with interest was declined by the trial court. The respondent-decree holder, being not aggrieved, did not challenge the same any further, however, the appellant impugned the same before the lower appellate court in appeal, where judgment and decree of the trial court was upheld. The relief of recovery of ₹ 31,000/- along with interest was declined by the court on the ground that it is not expected that on the same day the appellant will pay the interest of ₹ 31,000/- and take a loan of the same amount as well, but the fact remains that pronote of ₹ 2,58,000/- was duly proved. In that light, there is no error in the judgments and decrees of both the courts below in decreeing the suit only to that extent while declining the relief of ₹ 31,000/- along with interest to the respondent-plaintiff.

Once there is no merit in the present appeal, I do not find any reason to go into the claim made by the appellant to permit him to sue as an indigent person, as the same would be an exercise in futile.

No substantial question of law arises in the present appeal. The same is, accordingly, dismissed. Consequently, the accompanying applications are also dismissed.

(Rajesh Bindal)
Judge

4.5.2015
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