

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.4027 of 2013

Date of Decision.07.09.2015

M/s Bahal Singh Sidhu and Company

.....Appellant

Versus

Tarsem Singh

.....Respondent

Present: Mr. Mandeep K. Sajjan, Advocate
for the appellant.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

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?

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K. KANNAN J. (ORAL)

1. The appeal is by the defendant unsatisfied with the counter claim that it granted only in part. The plaintiff filed the suit for recovery of value of stock given to the defendant at various dates for ₹ 2,37,787/-. The defendant contended that the plaintiff has been receiving loans in advance against the supplies which they were making over a period of time and there was an outstanding credit in favour of the defendant. The defendant was particularly making a statement that he had issued a cheque for ₹ 1 lac on 19.05.2000 which was entered in the ledger book maintained by the defendant and there had been also entries made in the account book on 10.11.2000 for ₹ 25,000/- as paid in cash and on 13.11.2000 as having advanced another ₹ 25,000/-. The trial Court made a reference to the ledger page, found a credit entry of ₹ 66,985/- in the name of the plaintiff for 2.10.2000 and ₹ 13,397/- on 3.10.2000. Striking a balance, the trial Court had found that the

defendant had a credit of ₹ 69,618/- and granted a decree therefor with interest 19%. The Appellate Court modified the same in the appeal filed by the plaintiff and held that while the entry of ₹ 1 lac was supported through proof of delivery of cheque and encashment by the plaintiff, there was no such proof rendered for the alleged payment of cash on two different dates at ₹ 25,000/- each on the dates referred to above. The counsel would argue that if the Court was acting on the credit entries available for the plaintiff in the book, the Court could not have rejected the entries found in the same book that allowed for credit for the defendant. The counsel would also state that Section 34 of the Indian Evidence Act makes possible that the entries made in account book in the usual course of business are relevant as proof of what the entries contained.

2. I would reject this argument for the only reason that if there are credit entries for the plaintiff in the defendant's book, it would amount to an admission by the defendant with reference to claim made by the plaintiff at least in part of what they were making a claim for. As far as the entries by the defendant himself in the account book over which the plaintiff could have no control, the entries of ₹ 25,000/- each on two occasions as having been advanced by the defendant to plaintiff must have some supporting voucher therefor. A mere entry in an account book though may be relevant under Section 34 of the Indian Evidence Act cannot obtain a credible value merely because the entries are spoken by an accountant. If the receipt of ₹ 25,000/- cash each on two occasions is denied by the plaintiff and the defendant is unable to vouch for those payments other than his own entries unlike the case

of credit for ₹ 1 lac which had been paid by cheque and the lower Appellate Court had rejected the plea of the defendant, I will let the matter rest there as one brought out through appreciation of evidence on a fact at issue and does not pose any substantial question of law for consideration. The Appellate Court allowed for interest @6% and counsel says that it must have been 9% in the manner granted by the trial Court. This argument also, I do not think, it is possible to make an intervention, for, rate of interest for an agriculturist must be reasonable and appropriate and if the Appellate Court had scaled down interest at 6% since the parties were agriculturists, I would not find this to be erroneous or to treat it as commercial transaction which could qualify for a bank rate of interest.

3. I find nothing for intervention in the second appeal. The second appeal is dismissed.

(K. KANNAN)
JUDGE

September 07, 2015
Pankaj*