

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

RSA No.203 of 2015

Date of decision : 03.12.2015

Major Singh

...Appellant

Versus

Ganda Singh (deceased) through LR's

...Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

1. Whether reporters of local newspapers may be allowed to see judgment ?
2. To be referred to reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present: Mr. Tribhawan Singla, Advocate for the appellant.

Mr. Ashok Jindal, Advocate for the respondent.

AMIT RAWAL, J. (Oral)

The appellant-defendant is in Regular Second Appeal against the finding of fact of the lower Appellate Court reversing the judgment & decree of the trial Court, whereby suit for recovery of ₹3,04,000/- i.e. ₹2,00,000/- as principle amount and ₹1,04,000/- as interest, had been dismissed.

Mr. Tribhawan Singla, learned counsel appearing on behalf of appellant-defendant submits, that trial Court on the basis of the oral and documentary evidence found that testimony of PW1 and PW2 was in contradictory as it was never pleaded that amount of ₹2,00,000/- was

handed over to the defendants in the presence of Mr. Nirbhai Singh. The said fact was also not mentioned in the affidavit Ex.PW1/A and Ex.PW2/A. Lower Appellate Court has thus committed illegality and perversity in reversing the well-reasoned findings by forming opinion that testimony of Nirbhai Singh PW1 and Sher Singh PW2 cannot be discarded owing to certain minor discrepancies and thus prays that substantial question of law arises for determination.

Mr. Ashok Jindal, learned counsel appearing on behalf of respondent-plaintiff submits, that appellant-defendant has not led any evidence to discard/disprove the thumb impression on the pronote and receipt whereas the execution of the same has been proved through the testimony of the plaintiff and as well as one attesting witness namely Sher Singh. Thus, there is no illegality and perversity.

I have heard learned counsel for the parties and appraised the paper book.

Sher Singh, attesting witness of the pronote/receipt who is none else but grandson of plaintiff. The plea that once witness to the aforementioned document has deposed, presumption is drawn that it is authenticated documents. In my view, no stranger would witness in advancement of the loan between two individuals. It is only the common & known person would attest the documents. The appellant-defendant has failed to disprove the thumb impression on the pronote and receipt by not examining any Handwriting Expert. Had the pronote and receipt being not genuine, nothing prevented him from getting the same compared perhaps he was afraid that truth would surface.

Keeping in view the aforementioned facts, I do not intend to differ with the findings rendered by the lower Appellate Court based upon appreciation of oral and documentary evidence.

Appeal is dismissed.

03.12.2015

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**(AMIT RAWAL)
JUDGE**