

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

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Regular Second Appeal No.2383 of 2015 (O&M)
Date of Decision: September 23, 2015

Gurdeep Singh

...Appellant

Versus

Pawan Kumar

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Sahil Khunger, Advocate
for the applicant-appellant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

CM No.6257-C of 2015

Prayer in this application is for condonation of delay of 30 days
in filing the appeal.

For the reasons mentioned in the application which is duly
supported by the affidavit of the applicant-appellant, the same is allowed.

Delay of 30 days in filing the appeal stands condoned.

RSA No.2383 of 2015

In the present appeal, challenge is to the judgment and decree
passed by the Additional Civil Judge (Senior Division), Jalalabad (West),
dated 17.07.2013, whereby suit for recovery of ₹4,35,000/- (₹4,00,000/-
principal loan amount and ₹35,000/- interest) has been decreed and the
appeal preferred against the same stands dismissed by the Additional
District Judge, Fazilka, dated 15.01.2015.

2. It is the contention of learned counsel for the appellant-
defendant that the pronote and the receipt Exhibits P-1 and P-2 are
documents which are based on fraud. He contends that his thumb

impressions were taken on blank stamp papers as security for the loan amount, on which the said pronote has been scribed. He, thus contends that the claim on the basis of such documents cannot be sustained and the judgments and decree passed by the Courts below deserve to be set aside. Reliance has also been placed upon the judgment of this Court passed in case titled as *Sohan Singh Versus Amritpal Singh 2011(4) PLR 305*, in support of his contention that respondent-plaintiff has not been able to prove the source of the amount and the factum that an amount of ₹4,00,000/- was paid to him as consideration.

3. I have considered the submissions made by learned counsel for the appellant-defendant and have gone through the judgments passed by the Courts below with his assistance.

4. Perusal of the judgments passed by the Courts below leaves no manner of doubt that the respondent-plaintiff has been able to prove on the basis of cogent evidence that a loan amount of ₹4,00,000/- has been advanced to the appellant-defendant and the assertion of the learned counsel for the appellant-defendant that the consideration has not exchanged hands as the respondent-plaintiff has not been able to explain the source of said consideration amount of ₹4,00,000/- cannot be accepted in the light of the fact that he has stated that he was running a business of flour mill. Further his wife was a teacher and, therefore, he had a source of income which would justify with regard to the possession and availability of the loan amount which has been handed over to the appellant-defendant. These facts having been proved on record, the judgment passed by this Court in *Sohan Singh's case (supra)* would not help the case of appellant-defendant. That apart, the factum of thumb impressions being of the appellant-defendant on

the document, which according to him, is a forged document and result of fraud, shifts the onus upon the appellant-defendant with regard to proving such an assertion, especially when the execution of the pronote has been proved by the respondent-plaintiff, which in the considered view of this Court, he has failed to discharge as he has not been able to lead any cogent evidence in support of his assertion except for his bald statement.

5. Both the Courts below have returned concurrent findings after properly appreciating the evidence and the same cannot be interfered with as there is no perversity or illegality in the same.

6. No substantial question of law is involved in the present appeal. Therefore, finding no merit in the present appeal, the same stands dismissed.

7. In the light of the dismissal of the appeal itself, the application for stay i.e. CM No.6258-C of 2015, also stands disposed of as infructuous.

September 23, 2015

Puneet

**(AUGUSTINE GEORGE MASIH)
JUDGE**