

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

RSA No.3281 of 2015.

Decided on: 11.8.2015.

Rann Singh

... Appellant

Versus

Megh Raj

... Respondent

CORAM : HON'BLE MR. JUSTICE K. C. PURI

Present : Mr. A.P.S. Sandhu, Advocate &
Mr. Gaurav Singla, Advocate,
for the appellant.

K.C.PURI.J.

The defendant has directed this appeal against the judgment and decree dated 7.4.2015 passed by Sh. Balbir Singh, District Judge, Sangrur vide which the judgment and decree dated 16.3.2013 passed by Sh. Prashant Verma, PCS, Additional Civil Judge (Senior Division), Sunam was upheld and the suit of the plaintiff remained decreed.

In brief, the plaintiff filed suit for recovery of Rs.4,88,625/- i.e. Rs.3,50,000/- as principal amount and Rs.1,38,625/- as interest. It was pleaded that on 8.5.2007 the defendant borrowed a sum of Rs.3,50,000/- from the plaintiff and agreed to repay the same on demand along with interest @ 1.5% per month. The defendant executed a promissory note and receipt in favour of the plaintiff. The defendant

however, did not repay any amount to the plaintiff either out of principle amount or interest. The defendant was requested to repay the amount but to no effect. Hence, the suit.

The defendant appeared and contested the suit by filing written statement. The factum of taking loan, execution of promissory note and receipt was denied. It was pleaded that promissory note and receipt were forged and fictitious documents and without consideration. In fact, the defendant used to sell agricultural produce through M/s Dharma Parkash Raj Kumar, Commission Agent, Sular Gharat, Branch Sunam. The plaintiff was partner of said firm. The defendant sold his crop during the period 1996 to 2002 but the said firm did not render true accounts of his sold crops to the defendant due to which dealings between the aforesaid firm and the defendant were snapped. When the defendant stopped selling agriculture produce through aforesaid commission agency firm, the plaintiff started threatening that he would drag the defendant into frivolous litigation after obtaining signatures/thumb impressions of the defendant on blank documents and thereupon the defendants files suit against aforesaid commission agent firm and its partners. The plaintiff filed instant suit as a counter-blast to the suit filed by the defendant against the firm and its partners. Other averments of the plaint were denied. The defendant pleaded legal objections of maintainability, cause of action and the suit being time barred.

The plaintiff filed replication in which the stand taken

in the plaint was reiterated as correct and the contents of written statement were denied as false.

From the pleadings of the parties following issues were framed:-

1. Whether the plaintiff is entitled to recover Rs.4,88,625/- along with interest as prayed for ?OPP
2. Whether plaintiff has no locus standi to file the present suit ?OPD
3. Whether suit of the plaintiff is not maintainable in the present form ?OPD
4. Whether the suit is barred by limitation ?OPD
5. Relief.

The parties led their respective evidence before the trial Court. Learned trial Court vide judgment and decree dated 16.3.2013 decreed the suit of the plaintiff.

Feeling dis-satisfied with the aforesaid judgment and decree dated 16.3.2013 the defendant filed appeal before the first appellate Court. Vide judgment and decree dated 7.4.2015 passed by Sh. Balbir Singh, District Judge, Sangrur the appeal of the defendant was dismissed.

Still feeling dis-satisfied with the aforesaid judgments and decrees dated 16.3.2013 and 7.4.2015, the defendant has filed the present regular second appeal.

Learned counsel for the appellant has mentioned in

paragraph No.9 of the grounds of appeal that following substantial questions of law have arisen in the present appeal:-

(i) Whether judgments and decrees passed by both the Id. Courts below are an outcome of the misreading/misinterpretation of evidence ?

(ii) Whether judgments and decrees passed by both the Id. Courts below are based on conjectures and surmises and are liable to be set aside?

(iii) Whether judgments and decrees passed by both the Id. Courts below are well reasoned and liable to be upheld and restored ?

I have heard learned counsel for the appellant and have gone through the file.

Learned counsel for the appellant has submitted that judgments and decrees of both the Courts below is result of misreading and misinterpreting the evidence on the file. It is proved that plaintiff Megh Raj is running a shop of commission agent where earlier the defendant had been selling his produce. The plaintiff in the garb of selling produce might have taken the signatures of defendant on blank documents and might have used the same as genuine documents. The Expert produced by the defendant also proved the fact that body writing is not in the hand of the plaintiff so, an inference can be drawn that signatures of the defendant-appellant on blank papers have been used

by the plaintiff for filing a false suit. The plaintiff has failed to prove

the consideration in respect of amount and receipt.

I have carefully considered the said submissions but do not find any force in that submission.

Although, during the course of arguments, it is submitted that both the Courts below have misread and misinterpreted the evidence on the file but no pointed attention in respect of such evidence has been drawn. The expert produced by the defendant has not stated that signatures are not that of defendant. The only opinion given by that expert is that the body writing is not in the hand of the plaintiff. It is not the case of the either party that body writing is in the hand of plaintiff. The execution of pronote and receipt has been duly proved. So, under Section 118 of the Negotiable Instruments Act, the onus shifts upon the defendant to disprove the document. The defendant has not disproved the execution of document. So, I have no hesitation in holding that no substantial question of law has arisen in the present appeal. The questions of fact regarding execution of pronote and receipt and passing of consideration have been answered by both the Courts below in favour of the plaintiff and against the defendant-appellant and that finding of fact is not the result of misreading or misinterpreting the evidence on the file. Consequently, the appeal is without any merit and the same stands dismissed.

11.8.2015.
SN

(K.C.PURI)
JUDGE