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

**104 RSA No.1574 of 2014**
**Date of Decision:24.09.2015**

Firm Mohan Lal Chuni Lal Commission Agents ....appellant

Versus

Gursewak Singh .....respondent

**CORAM: HON'BLE MR.JUSTICE ARUN PALLI**

**1.Whether Reporters of local papers may be allowed to see the judgement?**
**2. To be referred to the Reporters or not?**
**3. Whether the judgment should be reported in the Digest?**

Present: Mr.Surinder Garg, Advocate
for the appellant

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**ARUN PALLI, J.(ORAL):-**

Suit filed by the plaintiff was dismissed by the trial Court, vide judgment and decree dated 27.11.2012. As even the appeal against the said decree failed, and, was dismissed on 29.10.2013, plaintiff is before this Court, in this Regular Second Appeal. Parties to the lis, hereinafter, would be referred to by their original positions in the suit.

In a suit filed by the plaintiff, he prayed for recovery of ₹ 5,47,000/-, i.e ₹ 3,62,000/- as principal and ₹ 1,85,000/- by way of interest @ 1.5% per month. It was maintained that plaintiff-firm was the sole proprietorship of Naresh Kumar son of Chuni Lal and was engaged in a commission agency at Mandi Dabwali. The defendant had been selling his produce at the shop of the plaintiff and the amount that was lent to the defendant on different occasions was duly depicted in the plaint. Plaintiff-firm maintained its account books namely Rokad, Khata and Mal Khata etc.in ordinary course of business. The account books maintained by the firm were produced before the income tax and sales tax authorities for inspection in due course every year. In all, the defendant had taken a loan of ₹ 3,62,000/- from the firm and was thus, liable to repay the same along with interest, which comes to ₹ 5,47,000/-. Repeated requests at the instance of the plaintiff, yielded no result and thus, the suit.

In defence, it was pleaded, inter alia, that the suit filed by the plaintiff was not maintainable, as it lacked any cause of action. The account books that were being maintained by the plaintiff, were forged and fabricated. It was denied that the defendant ever sold his crop through the plaintiff or obtained any loan.

On a due and comprehensive consideration of the matter in issue, and the evidence on record, both the Courts below concurrently concluded that no doubt in terms of Section 34 of the Indian Evidence Act, 1872 , the entries in the account books are considered to be relevant but are not sufficient to impose a liability. Even if plaintiff was able to show that certain entries in the account books, being maintained by the plaintiff- firm, reflect that some amount was lent to the defendant on different occasions but that alone was not sufficient in law to decree the suit, for plaintiff to succeed, it was required to lead corroborative evidence. In reference to the decision of Hon'ble the Supreme Court in ***Chandradhar Goswami and others vs Gauhati Bank Limited AIR 1967(SC) 1058***, it was observed that no person could be charged with a liability merely on the basis of entries in books of accounts, even though, the said books were kept in regular course of business. As a cogent evidence was required to prove the payment of money to charge the person, with any such liability, but with the only exception when a person upon whom the liability is sought to be fastened accepts the correctness of the books of accounts and does not question them. Therefore, mere production of proof of such entries in the books of accounts would not be sufficient by themselves. In any case, the plaintiff had not even placed on record the translated copies of the Bahi entries. Though, it was maintained in the plaint that plaintiff-firm was an income tax assessee and the books of accounts were duly produced before the income tax as also the sales tax authorities for inspection, but no cogent evidence was led in this regard by the plaintiff to substantiate its claim.

Learned counsel for the appellant simply seeks to reiterate the submissions that were advanced before the Courts below and rejected after a due and comprehensive consideration. No other argument was advanced.

Learned counsel for the appellant could not point out as to how the findings that were concurrently recorded by both the Courts below, were either contrary to the position on record or suffered from any material illegality.

In the wake of the position as set out above, there hardly exists any ground, least plausible in law, to interfere with the decree being assailed in the present appeal. No question of law, much less any substantial question of law, arises for consideration in the present appeal. The same being devoid of merit is accordingly, dismissed.

**24.09.2015** **(ARUN PALLI)**
***neenu*** **JUDGE**