

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

RSA No.2102 of 2014 (O&M)

Date of decision: 03.12.2015

Balwinder Singh

... Appellant

Vs.

M/s Kulwant Singh Shinder Pal Singh and others ... Respondents

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. Brijeshwar Singh Bhalla, Advocate
for the appellant.

AMIT RAWAL J. (Oral)

The appellant-plaintiff is in Regular Second Appeal against the concurrent findings of facts and law, whereby, the suit for recovery, has been dismissed.

Mr. Brijeshwar Singh Bhalla, learned counsel appearing on behalf of the appellant submits that both the Courts below have erroneously dismissed the suit and appeal, as it has prima facie been proved that plaintiff has extended the loan to the defendants on two occasions, thus, a sum of ₹11,38,500/- was liable to be recovered from the respondents.

I have heard learned counsel for the appellant-plaintiff and appraised the impugned judgments and decrees of the Courts

below.

It is a matter of record that the appellant-plaintiff has not stepped into witness box and only his son-Gurpreet Singh witness to the alleged loan transaction has stepped into witness box.

In view of the ratio decidendi culled out by the Hon'ble Supreme Court **Man Kaur (dead) by LRS vs. Hartar Singh Sangha 2010 (10) SCC 512** and as well as, the provisions of Order 3 Rule 1 of the Code of Civil Procedure, an agent cannot depose with regard to the personal knowledge. The extension of loan transaction was given by the plaintiff and not by the Attorney Holder. In my view, the respondent-defendants have been prevented from ascertaining the truth through cross examination of the plaintiff. In the absence of such cross examination, plaintiff has not been able to discharge the onus.

In view of the aforementioned observations, I do not intend to differ with the findings rendered by both the Courts below, based upon the appreciation of oral and documentary evidence, much less, no substantial question of law arises to be adjudicated by this Court.

Accordingly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

December 03, 2015
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