

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

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Regular Second Appeal No.2511 of 2014 (O&M)  
Date of Decision: September 23, 2015

Rakesh and others

...Appellants

Versus

Ram Lal

...Respondent

**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH**

Present: Mr. Ashok Kumar Malhotra, Advocate  
for the appellants.

**AUGUSTINE GEORGE MASIH, J. (ORAL)**

Challenge in this appeal is to the judgments and decree passed by the Courts below by which the suit for recovery for an amount of ₹10 lacs (principal amount) has been decreed by the trial Court on 29.06.2012 along with interest, which judgment has been upheld by the learned Lower Appellate Court by judgment dated 26.11.2013.

2. It is the contention of the counsel for the appellants-defendants that the factum that the appellants-defendants had taken a loan from the respondent-plaintiff is not disputed. He, however, contends that the said loan amount has been returned by the appellants-defendants on 01.06.2009 in the presence of one Bhagwan son of Balbir Singh. He contends that the loan amount having been returned and the liability having been discharged, the present suit preferred by the respondent-plaintiff cannot be decreed. He contends that apart from the appellants-defendants, Bhagwan has also supported the factum that the loan amount was duly returned by the appellants-defendants. Assertion has further been made that an amount of ₹4,40,000/- was withdrawn by appellants-defendants from the bank to pay

off the loan amount. He contends that the judgments and decree passed by the Courts below thus cannot be sustained

3. This contention of learned counsel for the appellants-defendants cannot be accepted in the light of the fact that there is no explanation as to why the appellants-defendants did not obtain any receipt of the payment made of the loan amount. It is also not understandable as to why the appellants-defendants had withdrawn an amount of ₹4,40,000/- from the bank and handed over the same to the respondent-plaintiff in cash when they could have got prepared a draft or could have given a cheque of the said amount. There being no explanation in this regard and specially when there was a writing with regard to the loan having been received by them, the appellants-defendants would have, as a prudent person, taken a receipt of the amount paid.

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

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

6. In the light of the dismissal of the appeal itself, the application for stay i.e. CM No.6610-C of 2015, also stands disposed of as infructuous.

**September 23, 2015**  
*Puneet*

**(AUGUSTINE GEORGE MASIH)**  
**JUDGE**