

RSA No.989 of 2015 (O&M)

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

RSA No.989 of 2015 (O&M)

Date of Decision: September 16, 2015

Sukhdev Singh @ Nika Singh

...Appellant

Versus

Gurnam Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASI

Present: Mr. Gopal Singh Nahel, Advocate
for the applicant-appellant.

AUGUSTINE GEORGE MASI, J. (Oral):

CM No.2938-C of 2015

Prayer in this application is for condonation of delay of 76 days in re-filing the appeal.

For the reasons mentioned in the application which is duly support by an affidavit of counsel himself, the same is allowed. Delay of 76 days in re-filing the appeal stands condoned.

CM No.2939-C of 2015

Prayer in this application is for making good the deficiency of Court fee. At the time when the appeal was filed, there was some deficiency in the Court fee which has been made good during the pendency of the appeal.

For the reasons mentioned in the application which is duly supported by an affidavit of counsel, the same is allowed. The

RSA No.989 of 2015 (O&M)

deficiency in Court fee which has been made good, is taken on record.

CM No.2940-C of 2015

Exemption is granted from filing the certified copy of grounds of appeal filed before the Appellate Court, subject to all just exceptions.

Application stands disposed of.

RSA No.989 of 2015

In this appeal, challenge has been posed to the judgments and decree passed by the Courts below, by which the suit of the respondent-plaintiff for recovery of an amount of ₹2,54,000/- alongwith interest at the rate of 9% per annum at the principal amount from the date of execution of the pronote and receipt i.e. 10.06.2006 till realization of the entire decretal amount, stands decreed on 12.09.2012 by the Additional Civil Judge (Senior Division), Moonak, which judgment and decree has been upheld by the Additional District Judge, Sangrur, on 29.08.2014 in an appeal preferred by the appellant-defendant.

It is the contention of the counsel for the appellant that the pronote and receipt although have been proved by the respondent-plaintiff but the appellant-defendant had re-paid an amount of ₹2,00,000/- of the amount initially lent by him. He has produced a receipt dated 10.05.2005 which has not been properly appreciated and therefore, the decree in excess of the amount,

RSA No.989 of 2015 (O&M)

without deducting the amount of ₹2,00,000/- already re-paid, cannot sustain.

This contention of the counsel for the appellant-defendant cannot be accepted in the light of the fact that the appellant-defendant, except for his bald statement, has not been able to produce any other evidence in support of his contention that he had re-paid the amount of ₹2,00,000/- vide receipt dated 10.05.2005. In the absence of any proof of having discharged the said liability, the plea of the appellant-defendant cannot be accepted especially when the respondent-plaintiff has been able to prove the execution of the pronote and the receipt by producing cogent and sufficient evidence in support of his case. The findings, thus, recorded by the Courts below cannot be faulted with.

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.

No substantial question of law is involved in the present appeal which requires consideration of this Court. Therefore, finding no merit in the present appeal, the same stands dismissed.

CM No.2941-C of 2015

In view of the order passed in the main appeal, the present application stands dismissed.

(AUGUSTINE GEORGE MASIH)

RSA No.989 of 2015 (O&M)

September 16, 2015
Harish

JUDGE