

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.4398 of 2014
Date of decision: 23.09.2015

Satnam Singh

... Appellant

Versus

Davinder Kaur and another

... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Sunny K. Singla, Advocate for the appellant.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

ARUN PALLI J. (Oral)

Suit filed by the plaintiff was dismissed by the trial court vide judgment and decree dated 20.10.2011. As even the appeal preferred against the said decree failed and was dismissed vide judgment dated 07.05.2014, the 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 a recovery of a sum of ₹ 2,60,000/- i.e. ₹ 2,50,000/- on account of principal and ₹ 10,000/- by way of interest. It was maintained that late Avtar Singh, husband of defendant No.1 and father of defendant No.2, had borrowed a sum of ₹ 2,50,000/- from the plaintiff and to discharge the said

liability, he had issued a cheque dated 23.06.2005, for a sum of ₹ 2,50,000/-, drawn on IndusInd Bank, Branch Ludhiana, in his favour. Plaintiff presented the said cheque but the same was dishonoured with the remarks “insufficient funds”. Avtar Singh never returned the amount in question during his lifetime despite repeated requests. Thus, defendants being his successors-in-interest were liable to repay the said amount.

In defence, it was pleaded, inter alia, that Avtar Singh had since died on 11.08.2004 and the alleged cheque bearing No.575849, for a sum of ₹ 2,50,000/-, was purportedly issued on 23.06.2005, there could be no occasion for him to have issued the cheque. It was denied that the cheque in question was even signed by Avtar Singh. Neither did he borrow any amount from the plaintiff nor issued any cheque to discharge the alleged liability. Therefore, it was prayed that the suit be dismissed.

On a due and comprehensive consideration of the matter in issue, both the courts concurrently recorded that the plaintiff apparently failed to lead any evidence to prove that late Avtar Singh had indeed borrowed a sum of ₹ 2,50,000/- from him. Nothing was brought on record to show that cheque dated 23.06.2005, was issued by the deceased to discharge any lawful or legal obligation. Ex facie, the cheque in question was purportedly issued on 23.06.2005, though concededly Avtar Singh had already passed away on 11.08.2004. This was

not the case set out in the plaint that late Avtar Singh had issued a post dated cheque to the plaintiff. Plaintiff also failed to indicate as to when he had actually advanced a sum of ₹ 2,50,000/- to Avtar Singh. It was only in the replication, plaintiff sought to maintain that the deceased had issued a post dated cheque in favour of the plaintiff in the month of June, 2004. Apparently, that was an afterthought and an attempt to plug the lacunas. Though, Avtar Singh had passed away on 11.08.2004, but plaintiff presented the cheque after 10 months of his death. No doubt, he could not present the cheque before the date it bears or indicated thereon, but nothing was brought on record to show that during this time, he either apprised the defendants of the loan that was allegedly raised by late Avtar Singh or served any notice upon the defendants. In short, plaintiff failed to substantiate that the cheque in question was indeed issued by late Avtar Singh to discharge any lawful/legal obligation.

Learned counsel for the appellant could not point out as to how the conclusions, that have concurrently been 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. No question of law, much less

any substantial question of law, arises for consideration.

Appeal being devoid of merit is accordingly dismissed.

September 23, 2015
Rajan

(Arun Palli)
Judge