

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

**Regular Second Appeal No.4574 of 2014 (O&M)
Date of decision: 21.05.2015**

Guljeet Singh

.....Appellant

Versus

Baldev Singh

.....Respondent

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Tejinder Pal Singh Makkar, Advocate,
for the appellant.

Ritu Bahri, J.

Defendant-appellant has come up in regular second appeal against the judgment of reversal dated 13.05.2014 passed by the Additional District Judge, Patiala, whereby appeal filed by the plaintiff-respondent against the judgment and decree dated 26.03.2013 passed by the Civil Judge (Junior Division), Nabha has been accepted and his suit has been decreed entitling him to recover Rs.46,000/- from the defendant-appellant along with interest at the rate of 1% per month from 09.04.2007 till 13.05.2014 and future interest at the rate of 6% per annum.

Baldev Singh-plaintiff (respondent herein) filed a suit for recovery stating therein that on 09.04.2007, Guljeet Singh-defendant had taken a loan of Rs.46,000/- from him and as a collateral security thereof, executed a pronote and receipt in the presence of marginal witnesses. The defendant had agreed to pay interest at the rate of Rs.1.50% per month, but he failed to pay any amount of interest. Plaintiff had requested the defendant to pay

back the borrowed amount, but of no effect. Consequently, he filed the

present suit for recovery of loan amount of Rs.46,000/- along with interest.

Upon notice, the defendant-appellant filed written statement by submitting that the alleged pronote and receipt dated 09.04.2007 was the result of fraud and the same was without consideration. It was further submitted that the defendant-appellant did not borrow any amount from the plaintiff-respondent. The marginal witness of the pronote and receipt namely Ram Singh was relative of the defendant, who had asked the defendant to act as a witness. The defendant signed the documents in blind faith. Thereafter, the plaintiff along with marginal witness and the scribe had played a fraud upon him.

From the pleadings of the parties, following issues were framed by the trial Court:-

1. Whether the plaintiff is entitled to recover the amount of Rs.46,000/- on the basis of pronote and receipt dated 09.04.2007? OPP
2. Whether the plaintiff is entitled for interest, if so, at what rate? OPP
3. Whether the pronote and receipt dated 09.04.2007 is forged and fabricated document and without any consideration? OPD
4. Whether the present suit is not maintainable in the present form? OPD
5. Whether this Court has no jurisdiction to entertain the present suit? OPD
6. Whether the plaintiff has concealed material facts from this court and as such is not entitled to any relief? OPD
7. Whether the plaintiff has got no cause of action or locus standi to file the present suit? OPD

8. Relief.

In order to prove his case, Baldev Singh-plaintiff appeared as PW-1 and deposed that he had taken the amount regarding pronote and receipt from a commission agent on interest at the rate of 1.5%. He had placed on record copy of complaint, which was filed under Section 138 of the Negotiable Instruments Act, filed by one Amrit Singh against Shiv Ram (father of plaintiff-Baldev Singh). The trial Court, after going through the evidence led by both the parties, dismissed the suit on the ground that the plaintiff-respondent was involved in criminal cases and his testimony could not be blindly relied upon. It was further held that the pronote and receipt dated 09.04.2007 was forged and fabricated document without any consideration.

On appeal, the lower Appellate Court, reversed the findings of the trial Court and held that in his written statement, the defendant had raised a plea that he had appended his signatures on the pronote and receipt at the asking of Ram Singh who is related to him. It was not the case of the defendant that he had appended his signatures on the blank documents. Therefore, he had impliedly admitted that he had put his signatures on the duly filled pronote and receipt. This fact was further corroborated by Ram Singh (PW-2), who was related to the defendant-appellant. The defendant did lead any evidence to show that he had enmity with Ram Singh or that he had, in any manner, committed fraud with him (defendant). Balbir Singh, Document Writer (PW-3) had deposed with regard to scribing of the pronote (Ex.P1) and receipt (Ex.P2) at the instance of defendant-appellant. He further deposed that the defendant had appended his signatures on the pronote and receipt in question after understanding the contents of the same.

The said entry bears the signatures of defendant and the witnesses. Execution of the pronote (Ex.P1) and receipt (Ex.P2) stood duly proved. In case the documents (Ex.P1 and Ex.P2) had been created by Ram Singh-witness, then the defendant-appellant must have taken up the matter with him (Ram Singh). However, no evidence was led in that respect. The discrepancies in the deposition of plaintiff-Baldev Singh and Ram Singh-witness were ignored by the lower appellate Court as there was no ground for disbelieving the version of the plaintiff. On the basis of these observations, the lower appellate Court reversed the findings of the trial Court and decreed the suit of the plaintiff in the aforesaid terms.

After going through the judgments passed by the lower appellate Court, this Court is of the view that since execution of the pronote (Ex.P1) and receipt (Ex.P2) had been duly proved on record by the plaintiff-respondent by leading cogent and convincing evidence, the same were apparently executed by the defendant-appellant for consideration. The defendant-appellant has failed to lead any evidence to show that he had appended his signatures on the pronote and receipt in question on the asking of Ram Singh. Therefore, suit of the plaintiff-respondent has been rightly decreed by the lower appellate Court. No illegality, much less perversity, has been found in the impugned judgment warranting interference by this Court.

No substantial question of law arises for consideration.

Dismissed.

21.05.2015
ajp

(RITU BAHRI)
JUDGE