

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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RSA No. 579 of 2014 (O&M)

Date of decision : March 03, 2015

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Harbans Singh

.....Appellant

Versus

Gurtej Singh

.....Respondent

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. Suvir Kumar, Advocate for the appellant.

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1. *Whether Reporters of Local Newspapers 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?*

RITU BAHRI, J

This regular second appeal has been filed against the judgment dated 26.10.2013 passed by Additional District Judge, Patiala vide which the appeal against the judgment and decree dated 28.2.2012 passed by the Additional Civil Judge (Senior Division) Nabha, decreeing the suit of the plaintiff by recording concurrent findings of facts, was dismissed.

The plaintiff-respondent (hereinafter referred to as 'the plaintiff') filed a suit seeking recovery of Rs. 5,93,600/- (Rs. 5,00,000 as principal amount and Rs.93,600/- as interest @ Rs.1.56% per month w.e.f. 15.11.2003 to 14.11.2004). On 15.11.2003, the defendant-appellant (hereinafter referred to as 'the defendant') took

a loan of Rs. 5,00,000/- from the plaintiff Gurtej Singh on interest @ Rs.1.56% per month and as collateral security for repayment thereof defendant executed pronote and receipt of even date in favour of plaintiff in presence of marginal witnesses.

The defendant took a stand that he stood guarantor for the father of plaintiff, Kesar Singh who had obtained a loan for the purchase of tractor and crop loan from the Stand Bank of India. Defendant legally mortgaged his property in favour of that Bank. The Bank filed a recovery suit against Kesar Singh and defendant which is pending adjudication and thumb impressions of defendant were taken by Kesar Singh and plaintiff on blank forms of pronote and receipt. The plaintiff examined attesting witnesses of the pronote and receipt Ex. P-2 and Ex. P-3 i.e PW-3 Gurbachan Singh and PW-Tarsem Lal who categorically stated in one voice that the pronote and receipt was executed by defendant Roshan Singh in favour of Gurtej Singh on 15.11.2003 and defendant took a loan of Rs. 5 lacs from him and after admitting the contents of the pronote and receipt the same was thumb marked by the defendant Roshan Singh and attested by the witnesses. Plaintiff examined Dr. Inderjit Singh, document Expert who deposed that he had carefully and thoroughly examined the disputed thumb impressions of Roshan Singh on the original pronote dated 15.11.2003 and on its receipt with the standard thumb impressions of Roshan Singh on the vakalatnama in favour of Sh. V.P Shukla, Advocate and the disputed thumb impressions tallied with the standard thumb impression of Roshan Singh and they were

of one and same person.

The lower Appellate Court examined the deposition of DW-2 Dr. Vikram Raj Singh Chauhan who is the Handwriting Expert. He proved his report Ex. DW 2/1. As per the report, no opinion could be formed with regard to the alleged identity and thumb impressions. Moreover, in his cross-examination he has stated that he has not compared the thumb impressions of Q.1 to Q.5 with D.1 and D.5 and X1 to X-5 in order to ascertain whether all the documents are replica of each other or not and he cannot say whether D.1 and X.1 are the exact replica of each other or not. The report was found to be not clear. The trial Court as well as the Appellate Court accepted the report of Dr. Inderjit Singh, the document expert. Defendant did not lead any evidence to show that any fraud had been committed upon him and no witness was examined in this regard. Both the Courts have decreed the suit of the plaintiff as he had proved the execution of the pronote by the deposition of PW-3 Gurbachan Singh and PW-4 Tarsem Lal who were the attesting witnesses of the pronote and receipt Ex. P-2 and Ex. P-3 coupled with the document expert report of Dr. Inderjit Singh. In the absence of any evidence with regard to committing fraud, judgments passed by both the Courts below do not require any interference. There is no substantial question of law which arises for consideration in this regular second appeal. Hence the same is dismissed.

March 03, 2015

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(RITU BAHRI)
JUDGE