

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.6090 of 2014 (O&M)
Date of Decision.19.11.2015

Puran Singh

.....Appellant

Versus

Chanan Ram

.....Respondent

Present: Mr. J.S. Thind, Advocate
for the appellant.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

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?

-. -

K. KANNAN J. (ORAL)

1. The appeal is by the defendant whose defence in suit for promissory note executed by him in favour of the plaintiff was decreed for ₹2 lacs with interest. The contention taken in defence was that the defendant was having dealings with one commission agent M/s Hardial Singh and sons and one Raj Kumar was working as a clerk for that agency. He had secured his signatures in several blank promissory notes and the plaintiff had filled up the recitals and instituted the suit. At the trial, the plaintiff examined himself as PW2 and his brother Chandi Ram, who had independently filed the suit against the very same defendant was examined as PW1. PW3 was the scribe of the promissory note and PW4 was the notary public who had attested to the signature of the defendant. The defendant did not deny the signature itself but he was trying to contend that his signatures were taken on blank papers. The

Court found that it was not merely the signatures found in the

promissory note but the defendant had also signed in the register maintained by the scribe at the time when the blank promissory note had been purchased by the plaintiff which had been later filled up by the recitals. The Court made observation of the fact that there was no cross-examination of the scribe that the signature found in the register produced by the scribe was not that of his. The Court, therefore, examined the unnaturalness of the conduct of the defendant in merely executing a promissory note on papers produced by the plaintiff and gave no credence to his defence that he did not borrow any amount. At the trial, the defendant wanted to contend that the plaintiff did not have any means to advance such a large sum. DW1 Hardial Singh was brought as witness by the defendant and in the cross-examination it was elicited and document proved through him that the plaintiff had sold through Hardial Singh crops on 8.4.2004 for ₹56,379/-, on 9.4.2004 for ₹48,235/-, on 10.04.2004 for ₹54,813/- and on 12.04.2004 for ₹55,126/- and in this way the plaintiff had sold crops to the tune of ₹2,14,555.70. The Court also made reference to several other receipts obtained by the plaintiff through his dealings with M/s Hardial Singh. Based on this finding that the plaintiff had also sufficient resources had held that the defence that the plaintiff did not have the means to advance money could not also be true. The suit was decreed on that basis. The Appellate Court also affirmed the same.

2. The learned counsel wants to contend that apart from the promissory note said to have been executed by the defendant, plaintiff's brother Chandi Ram had himself filed a suit on the basis of an alleged promissory note said to have been executed by him and the said

litigation is pending between the parties before this Court. I cannot find any relevance of the institution of suit by the plaintiff's brother and fact of pendency of the said case before this Court. The case ought to be considered only on issue of whether the defendant had executed the promissory note and whether the plaintiff had established the same and could secure the decree in the manner sought for. If the signature in the document was attested and the scribe had spoken about the fact that his name had also been entered in the register of stamp sold and the document was written by him and the defendant affixed his signature, it can be no argument by the defendant to state that he had signed it without knowing the recitals and that he had signed on blank papers. If a person is so indiscreet to sign on papers and hand it over to other person for recitals to be filled up, he must take the consequences of his own foolhardiness and cannot be heard to contend that they were all blank papers. The contention that the defendant had merely in blank papers also could not be true as found by the trial Court, having regard to the fact that even apart from the signatures on stamp papers, the defendant's signature had also been found in the register maintained by the scribe. There was no explanation given which has been commented by the Court as to how the defendant signed in the register of the stamp vendor-cum-scribe on the date when the promissory note was said to have been executed. The only point that really stood for consideration was whether the plaintiff had even means to pay and there was adequate proof for the same. The counsel reads to me evidence given by the parties before the Court below to state that there was nothing elicited from any of the witnesses that the promissory note

contained any recital that amount had been paid. A promissory note is an unconditional undertaking to pay for any amount of consideration received. Unless there is any requirement relating to an unconditional undertaking which is challenged, nothing will turn on the alleged lack of recital regarding actual payment of consideration to the defendant. There is not even a plea at any time before the Court below that the recitals do not support the requirement of law for enforcement as a promissory note.

3. A feeble argument is made towards the end that the suit itself is barred by limitation. This point has also been considered by the court below in finding that the promissory note was dated 13.07.2004 and the suit had been filed on 12.06.2007. This finding has also been affirmed in the appeal. The counsel wants to point out that in the body of the judgment, it is made to appear as though the suit has been filed on 4.8.2007. I cannot make any meaning out of this, for the issue of limitation has been specifically dealt with by reference to the date of institution of suit as dated 12.06.2007. I do not, therefore, feel myself detained by any mistake that may have happened while preparation of the judgment in making reference to the date of institution of suit as 4.8.2007.

4. There is no merit in the appeal and the appeal is dismissed as devoid of merit.

(K. KANNAN)
JUDGE

November 19, 2015
Pankaj*