

IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

Date of Decision: 07.01.2016

**RSA No.2591 of 1996**

Baldev Raj

...Appellant

Versus

Nanak Chand

...Respondent

**CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA**

Present: Mr. Arvind Singh and Mr. Parveen Sharma, Advocates,  
for the appellant.

None for the respondent.

**HEMANT GUPTA, J. (ORAL)**

The defendant is in second appeal aggrieved against the judgment and decree passed by the Additional District Judge on 11.11.1994, whereby the suit of the plaintiff for recovery of Rs.8000/- on the basis of pronote dated 20.06.1987 was decreed.

The plaintiff-respondent filed suit for recovery of Rs.10,080/- i.e. Rs.8000/- as principle amount and Rs.2080/- as interest from 20.06.1987 to 19.08.1989, on the plea that the defendant borrowed a sum of Rs.8000/- on 20.06.1987 and in pursuance thereof executed a pronote and receipt in favour of the plaintiff. Since the amount was not paid, the plaintiff filed the suit for recovery on 11.12.1989. On the other hand, the defendant alleged that the documents of pronote and receipt are forged, fabricated and under stamped. From the pleadings of the parties, following issues were framed by the learned trial Court:

“(i) Whether the plaintiff is entitled to recover Rs.8000/- as principle alongwith interest on the agreed rate of interest as alleged in the plaint? OPP

- (ii) Whether the defendant executed a pronote and receipt in favour of the plaintiff on receipt of Rs.8000/-? OPP
- (iii) Whether the suit of the plaintiff is not maintainable in the present form? OPD
- (iv) Whether the suit of the plaintiff is barred by time? OPD
- (v) Whether the plaintiff has got no money lending licence and registration and has also not followed the provision of Money Lender Act? OPD
- (vi) Whether the defendant is protected under the Haryana Relief of Agricultural Indebtedness Act? OPD
- (vii) Whether the suit of the plaintiff is false frivolous and vexatious to the knowledge of the plaintiff? OPD
- (viii) Whether the plaintiff has no cause of action against the answering defendant? OPD
- (ix) Relief.”

In evidence, apart from examining Harbans Singh as PW-2, plaintiff – Nanak Chand appeared as his own witness as PW-1 and proved the pronote and receipt as Exs.P1 & Ex.P2 respectively. On the other hand, the defendant appeared as DW-1 and denied the execution of pronote and receipt.

After considering the entire evidence, the learned trial Court dismissed the suit. However, in appeal, the learned first Appellate Court found that the defendant is acquainted with the plaintiff and, therefore, lending of money for few months cannot be doubted. It also found that the fact that the receipt is not signed by the plaintiff is immaterial, as the receipt is not required to be signed by the lender. It has been also found that the revenue stamps of 20 paise each was required for pronote and receipt, but were affixed at one place meant for pronote. Therefore, the pronote and receipt on one piece of paper with stamps at one place will not make the document as inadmissible. The first Appellate Court after considering the

entire evidence found that the pronote and receipt stand executed. Consequently, while decreeing the suit in respect of principle amount of Rs.8000/-, the learned first Appellate Court granted interest at the rate of 12% from the date of filing the suit till the date of decree and interest at the rate of 6% per annum from the date of decision till the date of actual realization.

In the present second appeal, no substantial question of law has been framed nor arises for consideration. It is a finding of fact, as to whether pronote and receipt stand executed. Even if the receipt is not stamped, it will be inconsequential, as the suit on the basis of pronote itself bearing revenue stamps of 40 paise would be maintainable and could be decreed. The findings of fact recorded by the first Appellate Court cannot be said to be untenable on any account.

Therefore, I do not find there is any patent illegality or irregularity in the findings recorded by the learned first Appellate Court, which may give rise to any substantial question of law for consideration by this Court in second appeal.

Dismissed.

**(HEMANT GUPTA)**  
**JUDGE**

**07.01.2016**  
Vimal