

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

R.S.A.No.282 of 2010 (O&M)

Date of Decision: September 21st, 2016

Mukhtiar Singh

...Appellant

Versus

Kanta Rani

...Respondent

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

**Present: Mr.Aman Dhir, Advocate,
for the appellant.**

**Mr.Sherry K. Singla, Advocate,
for the respondent.**

AMIT RAWAL, J. (Oral)

Appellant-defendant is aggrieved of the concurrent findings of facts and law, whereby the suit for recovery of ₹3,00,000/- along with 9% interest per annum on the principal amount w.e.f. 2.6.2001 till the date of decision with future interest @ 6% per annum on the principal amount, has been decreed.

Mr.Aman Dhir, learned counsel for the appellant-defendant submits that the suit, aforementioned, was instituted on the basis of the pronote and receipt dated 2.6.2001, whereby the respondent-plaintiff is alleged to have advanced the cash loan of ₹3,00,000/-. The respondent-plaintiff has failed to prove the account books. Except the statement of attesting witness, no other evidence has been led. In fact, the appellant-defendant had been supplying the material/agriculture produce to the respondent-plaintiff being commission agent, but after having stopped the

same, he fabricated the pronote and receipt and sought the recovery of the amount, whereas no amount was due towards the appellant-defendant as no loan was taken and, thus, urges this Court for setting-aside of the concurrent findings.

Per contract, Mr.Sherry K.Singla, learned counsel for the respondent-plaintiff submits that the Courts below have rightly drawn the presumption under Section 118 of the Negotiable Instruments Act as the pronote has been proved through the examination of the attesting witness Dev Raj PW-2. Concurrent findings of fact cannot be interfered with unless and until there is gross illegality and perversity and, thus, urges this Court for affirming the findings.

I have heard the learned counsel for the parties and appraised the paper book.

Preceding to the filing of the suit, appellant-defendant was served with a legal notice Ex.P3, which has been proved through postal receipt Ex.P4. Ex.P5 is the Acknowledgment. Nothing prevented the appellant-defendant to raise the plea earlier, thus, the plea taken in the written statement is an afterthought. The respondent-plaintiff has discharged the onus by proving the pronote and receipt through the testimony of the attesting witness PW-2 Dev Raj. No evidence, contrary to the aforementioned, is rebutted through the examination of the expert or other direct and cogent, much less corroborative evidence. Having failed to do so, I am of the view that there is no force in the submission of Mr.Dhir. Presumption under Section 118 of the Act has also been drawn in favour of the respondent-plaintiff.

For the foregoing reasons, no ground for interference is made

out, much less no substantial question of law arises for determination by this Court.

Appeal stands dismissed.

September 21st, 2016
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No