

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

R.S.A.No.3860 of 2010

Date of Decision: March 01, 2016

M/s Karam Chand Sham Sunder Commission Agent, Pehowa & others

...Appellants

Versus

Hari Ram (since deceased) through L.Rs.

...Respondents

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

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?

Present: Mr.Sumeet Singh, Advocate for
Mr.Deepak Manchanda, Advocate,
for the appellants.

Mr.Atul Gaur, Advocate for
Mr.Sumeet Goel, Advocate,
for respondent Nos.1 to 8 & 10.

AMIT RAWAL, J. (Oral)

The appellant-plaintiffs are aggrieved of the concurrent findings of fact, whereby the suit for recovery of an amount of ₹3,48,791/- along with interest, has been dismissed.

Mr.Sumeet Singh, Advocate for Mr.Deepak Manchanda, Advocate appearing on behalf of the appellant-plaintiffs submits that both the Courts below have committed illegality and perversity in not appreciating and taking into consideration the Bahi entries, which are equivalent to the books of account and admissible as per Section 34 of the Indian Evidence Act. PW-4, an employee from the Income Tax Department, also proved the same, in essence, the signatures of the defendants had been

proved on the Bahi entries through the testimony of the Handwriting Expert. All these facts have not been noticed and, thus, the substantial questions of law as mentioned in the grounds of appeal arise for determination by this Court.

Mr.Atul Gaur, Advocate for Mr.Sumeet Goel, Advocate appearing on behalf of respondent Nos.1 to 8 & 10 submits that it is a matter of record that earlier the appellant-plaintiffs had filed a suit against the defendants in the year 1997 for recovery of odd ₹1,00,000/- on the premise that they had extended loan for the period 10.2.1994 to 7.6.1997 and the said suit was withdrawn on 4.1.2002 and the present suit has been filed on 10.1.2002 claiming the recovery of the aforementioned amount by pleading that the outstanding amount is w.e.f. 30.11.1999 to 10.8.2001, in essence, the aforementioned loan was extended during the pendency of the previous suit, which is totally unbelievable and having noticed the aforementioned facts, the Courts below dismissed the suit. Even the Handwriting Expert did not compare the signatures from the admitted signatures, but compared the same from copy to copy and his report was discarded and, thus, no substantial question of law arises for determination and prays for dismissal of the appeal.

I have heard the learned counsel for the parties and appraised the paper book and am of the view that there is no substance in the appeal for the reason that it is highly unbelievable that during the pendency of the previous suit, the appellant-plaintiffs would extend loan commencing from 30.11.1999 to 10.8.2001. The previous suit was withdrawn on 4.1.2002 by making the statement that nothing was due, in essence, appellant-plaintiffs were in habit of coining the story of claiming money and filing the suit.

Even otherwise, there were many alterations and cuttings in the Bahi entries. The same had not been explained. Even a complaint was also made by the defendants against the appellant-plaintiffs. In these circumstances, the previous suit was withdrawn.

In my view, the appellant-plaintiffs failed to discharge the onus vis-a-vis extension of loan to the respondent-defendants, much less authenticity and genuinity of the Bahi khata. No ground for interference is made out. No substantial question arises for determination by this Court. Accordingly, the findings rendered by both the Courts below are affirmed and the appeal is dismissed.

March 01, 2016
ramesh

(AMIT RAWAL)
JUDGE