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

**RSA-5054-2011 (O&M)
Date of decision : 03.03.2016**

Baldev Singh

...Appellant

Versus

Surjit Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Rakesh Gupta, Advocate
for the appellant.

Mr. Munfaid Khan, Advocate for
Mr. Arvind Rajotia, Advocate
for the respondent.

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?

AMIT RAWAL, J. (ORAL)

The appellant-defendant is aggrieved of the judgment and decree of the lower Appellate Court, whereby during the pendency of the appeal, an application seeking amendment of the written statement to incorporate the factum of the sale deed dated 22.04.1999 allegedly executed by the plaintiff was sought.

Mr. Rakesh Gupta, learned counsel appearing on behalf of the appellant-defendant submits that he has no objection, in case, the sale deed

be read in evidence and the lower Appellate Court, vide its order dated 02.03.2010, noticing the statements, observed that judicial notice of the sale deed shall be taken at the time of final argument and adjourned the matter for 19.03.2010. He submits that when the appeal was decided, an application was already withdrawn, but had dismissed the same vide order dated 19.07.2011, the lower Appellate Court had not taken judicial notice of the sale deed.

I have gone through the judgment and decree of the lower Appellate Court and of the view that the lower Appellate Court had taken judicial notice of the sale deed which reflected at para 23 page 49 which reads thus:-

“Now, it is also submitted by the learned counsel for the appellant that the plaintiff has failed to prove source of money, which is claimed to have been borrowed by the defendant from him. However, on this account also the defendant has failed to establish his claim. In this regard, suffice to considered the sale deed dated 22.04.1999, proved through witnesses, in the rebuttal, about the sale of land by the plaintiff, two days prior to the transaction in question. This transaction was for an amount of ₹ 2,50,000/- and in view of the same, when the plaintiff had categorically stated that this amount was lying in his house and even Ranjit Singh, his brother had so stated, it is evident that there was availability of the funds with the plaintiff. Though, the defendant has proved subsequent sale deed, vide which, the land had been purchased by the plaintiff and his brothers, but however, simply on the score of further sale deeds, having been executed, which are Ex.D-11 and Ex. D-12, will not ipso facto lead to the conclusion that the said amount had been used for that purchase and the same was not handed over to Baldev Singh. In fact entering into such kind of

transaction itself shows that the plaintiff is a man of means and on this account, availability of funds, as such, in his hands, stands established and the weak paying capacity of the plaintiff, as now stressed upon, is established.”

In view of the aforementioned facts, rejection of the application vide order dated 19.07.2011, irrespective of the fact, the application was seeking amendment to the written statement is immaterial. The trial Court had decreed the suit on the basis of the pronote. The appellant-defendant has failed to disprove his signatures on the pronote.

There is no substance in the submissions of Mr. Rakesh Gupta, that pronote was not stamped, whereas the amendment came in the year 1991. The respondent shall liable to pay deficiency of stamp duty to be paid on the pronote.

Keeping in view the aforementioned facts and circumstances, I do not intend to differ with the findings rendered by the lower Appellate Court, much less, no substantial question of law arises for determination.

With the aforementioned observations, the appeal is dismissed.

03.03.2016
yogesh

(AMIT RAWAL)
JUDGE