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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-5018-2012 (O&M)
Date of decision : 10.05.2016

Harbir Singh

... Appellant

Versus

Manjit Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

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

Mr. Arvind Rajotia, Advocate
for the respondents.

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 rendered by both the Courts below, whereby the suit for recovery claiming amount of ₹ 6 Lacs as principal w.e.f. 05.01.2003 and interest @ 1% per month i.e. 12% per annum and future interest @ 6% per annum, has been decreed by both the Courts below.

The case set up by the appellant is that he did not execute the pronote and receipt. The transaction was not commercial. The plaintiff has miserably failed to prove the aforementioned documents. Yet the Courts below decreed the suit.

Mr. Siddharth Gupta, learned counsel appearing on behalf of the

appellant-defendant submits that both the Courts below have erred in holding that the defendant(s) admitted the signatures of deceased Randhir Singh on pronote (Ex.P-1) and receipt (Ex.P-2), whereas the plaintiff has failed to belie the signatures on the aforementioned documents through the testimony of the attesting witnesses. He further submits that PW-1 Manjit Singh-plaintiff did not disclose in the examination-in-chief the source of money. It is a settled law that until and unless, the source of money is not proved, the claim for recovery of the money is not permissible. The evidence produced by the appellant rather shows that there was no loan transaction, thus, urges this Court to formulate the following substantial questions of law:-

1. Whether the interest @ 12% per annum and future interest @ 6% per annum is legal and justified?
2. Whether the judgment and decree of both the Courts below suffers from illegality and perversity?

Mr. Arvind Rajotia, learned counsel appearing on behalf of the respondents submits that the pronote and receipt are the presumption under Section 118 of the Negotiable Instruments Act. The appellant has miserably failed to lead any evidence to belie the signatures on the pronote and receipt, rightly so, interest @ 12% per annum has been claimed, both the Courts below has granted 6% future interest, thus, prays for dismissal of the appeal as no substantial question of law arises for determination.

I have heard the learned counsel for the parties and appraised the paper book and of the view there is some force and substance in the plea of Mr. Siddharth Gupta, viz-a-viz the grant of interest @ 12% as it was not a commercial transaction and therefore, the interest @ 12% is phenomenally

higher and the same is hereby reduced to @ 9%,

As regards the execution of the pronote and receipt, the defendant(s) has failed to place on record the evidence qua his signatures on the pronote and receipt. The attesting witness PW-2 Jaswant Singh has proved the signatures on the pronote, in my view, the appellant has failed to rebut the burden, rightly so, the suit has been decreed.

In view of the foregoing reasons, the judgment and decree of both the Courts below are hereby modified. The substantial question of law No.1 is answered in favour of appellant and against the respondent and question No.2 is answered in favour of the respondent and against the appellant.

However, the plaintiff shall be entitled to the amount of ₹ 6 Lacs as principal along with interest @ 9 % from the date of advancement till the date of decision of the suit and future interest @ 6% till its realisation.

With the aforesaid modification, the appeal is partly allowed.

10.05.2016
yogesh

(AMIT RAWAL)
JUDGE