

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

**Regular Second Appeal No.517 of 2012 (O&M)
Date of Decision: December 01, 2016.**

Atma Singh

.....APPELLANT(s).

VERSUS

Shangara Singh

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Ramesh Chand Sharma, Advocate
for the appellant (s).

Mr. Surinder Sharma, Advocate
for the respondents.

SURINDER GUPTA, J.

This second appeal has been filed by defendant Atma Singh against the concurrent finding of fact recorded by the Courts below, whereby the suit filed by plaintiff Shingara Singh was decreed for recovery of ₹1,25,000/- with interest @ 6% per annum w.e.f. 25.08.1998 till the actual realisation of the amount.

2. Plaintiff had been Ex-Sarpanch of village Noorpur, Tehsil Nakodar, District Jalandhar. The case of the plaintiff, in brief, is that on the request of defendant, who wanted to purchase ticket to go abroad, he got prepared a demand draft bearing No.140025 dated 25.08.1998 from his bank account in favour of Paris Air Services Pvt. Ltd., Delhi and delivered it to the defendant, who promised to return the loan amount on demand.

However, he committed default in repayment of loan and a notice dated 11.09.2000 was served on him but of no avail, hence, the suit.

3. The defendant contested the claim of the plaintiff inter-alia pleading that it was plaintiff, who had approached him posing as Travel Agent and asked to pay ₹1,25,000/- to arrange 2 years' Visa of Cyprus for him. The defendant paid ₹1,25,000/- to the plaintiff at his village Noorpur in the present of Bhag Singh and Karam Singh. This amount was deposited by the plaintiff in his account in Indian Bank Branch Noorpur, Tehsil Nakodar, District Jalandhar but he failed to arrange Visa for defendant and filed the present suit. The matter was reported to the police and FIR was also registered against the plaintiff.

4. This fact is not disputed that draft of ₹1,25,000/- was got prepared by the plaintiff payable to Paris Air Services Pvt. Ltd., Delhi for the ticket of defendant.

5. Learned counsel for the appellant has argued that the plaintiff has failed to prove that the tickets were actually purchased and the defendant had gone abroad. The draft was not in the name of defendant, as such, no liability of defendant is attracted to pay the draft amount.

6. The appellant appears to be admitting the transaction with the plaintiff. He has stated that he paid ₹1,25,000/- to plaintiff on his assurance to arrange 2 years' Visa for Cyprus. This payment was made in the presence of Bhag Singh and Karam Singh. However, both these witnesses were not examined. The preparation of bank draft from the account of plaintiff is admitted. It is also proved on record that plaintiff had served the notice calling upon the appellant-defendant to return ₹1,25,000/- and that notice

was never replied.

7. The arguments advanced by learned counsel for the appellant that it was for the plaintiff to prove that tickets were issued in the name of defendant or that he had used those tickets, have no merits. The only factor the plaintiff had to prove is advancement of ₹1,25,000/- to the defendants. As to whether this amount was utilised and in which manner, it was utilised, was for the defendant to explain.

8. Both the Courts below have concluded on appraisal of evidence on record that the advancement of ₹1,25,000/- to appellant-defendant through draft got prepared by the defendant in the name of Paris Air Services Pvt. Ltd., Delhi from the account of plaintiff is duly proved. I find no legal or factual infirmity in the finding of fact recorded by the Courts below, calling for any interference.

9. No substantial question of law requiring determination arises in this appeal, which has no merits.

Dismissed.

December 01, 2016
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned: ***Yes/No***

Whether Reportable: ***Yes/No***