

RSA No. 221 of 2013(O&M)

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In the High Court of Punjab and Haryana at Chandigarh

RSA No. 221 of 2013(O&M)

Date of Decision: 20.5.2016

Jagtar Singh

--- Petitioner

versus

Mohinder Singh

---Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr.Kulbhushan Soi, Advocate
for the appellant**

**Mr. R.S.Aulakh, Advocate
for the respondent**

- 1. Whether Reporters of local papers may be allowed to see the judgment?**
- 2. To be referred to the Reporter or not?**
- 3. Whether the judgment should be reported in the Digest?**

Rekha Mittal, J.

The present appeal has been directed against the consistent findings recorded by the Courts below whereby suit filed by the

respondent/plaintiff was decreed by the trial court vide judgment and decree dated 14.11.2011 and the appeal preferred by the unsuccessful defendant/appellant did not find favour with the Additional District Judge, Ferozepur.

The respondent/plaintiff filed a suit for recovery of Rs. 4,64,000/- i.e. Rs. 4,00,000/- as principal amount and Rs. 64,000/- towards interest and further interest at the rate of 1% per mensem on the basis of pronote and receipt dated 10.11.2004 executed by the appellant/defendant in favour of the respondent/plaintiff.

The appellant/defendant contested claim with the plea that the alleged pronote and receipt are forged and fabricated documents prepared by the respondent/plaintiff in connivance with Gurwinder Singh son of Angrej Singh. It has been averred that Gurwinder Singh is doing business of commission agent at Mallanwala in the name and style of M/s Angrej Singh Gurbinder Singh. He was a customer of commission agency of Gurwinder Singh and Gurwinder Singh used to get his signatures on blank papers, stamp papers, pronote etc. as security of amount advanced to him. A dispute arose between the answering defendant and Gurwinder Singh in regard to excess charge of interest and he left business dealings with said

Gurwinder Singh. The respondent has good relations with Gurwinder Singh and the alleged witness Gurmej Singh is the husband of real sister of wife of Angrej Singh father of Gurwinder Singh. Harjinder Singh, another witness is also a close friend of the respondent and Gurwinder Singh.

On due consideration of rival submissions made by counsel for the parties in the light of materials on record, the learned trial court decreed the suit for recovery of Rs. 4,00,000/- alongwith interest at the rate of 9% per annum from the date of suit till the date of decree and future interest at the rate of 6% per annum from the date of decree till realization of decretal amount. As has been noticed hereinbefore, the findings recorded by the trial court were affirmed in appeal with modification to the extent that interest at the rate of 9% per annum shall be payable from 10.11.2004 till the date of filing of the suit i.e. 21.3.2006 and future interest at the rate of 6% per annum till realization of the entire amount.

Counsel for the appellant has submitted that the judgments and decree passed by the courts below are based on conjectures and surmises and thus untenable. It is further submitted that the court failed to appreciate plea of the appellant in right perspective and thus committed an error in holding in favour of the respondent/plaintiff.

Counsel for the respondent, on the contrary, has supported the judgments passed by the courts below with the submissions that the same are based upon detailed and thorough consideration of the pleadings of the parties, evidence adduced and submissions made by respective counsel. It has been argued with vehemence that factual findings consistently recorded by the courts below are not amenable to challenge in the second appeal unless the appellant is able to make out a case raising any substantial question of law requiring decision on merits.

I have heard counsel for the parties, perused the records particularly the judgments passed by the courts below.

Counsel for the appellant has made general and sweeping remarks qua the findings recorded by the courts below but failed to point out any thing satisfactory much less tangible and convincing to prove that findings of the courts are either not based upon evidence adduced on record or the same are the result of conjectures and surmises. As a matter of fact, counsel for the appellant has failed to raise any question of law much less a substantial one for adjudication. As has been rightly argued by counsel for the respondent, consistent findings of fact recorded by the courts below are not required to be intervened by this Court in exercise of jurisdiction under

Section 100 of the Civil Procedure Code unless the appeal gives rise to a substantial question of law.

For the foregoing reasons, finding no merit, the appeal fails and is accordingly dismissed leaving the parties to bear their own costs.

(Rekha Mittal)
Judge

20.5.2016
PARAMJIT