

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.254 of 2013
DATE OF DECISION: September 23,2016

Harcharan Jit Singh

...Appellant

versus

Major Singh

...Respondent

CORAM:- HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr.K.S.Sidhu, Advocate for the appellant.
Mr.S.K.Arora, Advocate for the respondent.

AMIT RAWAL, J.

The appellant-defendant is aggrieved of the judgments and decree rendered by the Courts below whereby the suit for recovery of an amount of Rs.1,00,000/- along with interest at the rate of 9% per annum from the date of execution of pronote Ex.P1 and receipt Ex.P2 has been decreed.

Learned counsel appearing for the appellant has drawn the attention of this Court to the order dated 4.2.2016 to contend that date of pronote was 1.7.2006, whereas, the suit was filed on 20.7.2009. As per provisions of Section 3 of the Limitation Act, the objection of limitation can be taken at any

stage. He submits that all these factors have not been taken into consideration by the Courts below.

Mr.S.K.Arora, learned counsel appearing for the respondent submits that the execution of pronote and receipt have duly been proved. The suit was filed during summer vacation. The copy of the suit as well as the zimni order dated 19.6.2009 are annexed as Annexures A.1 and A.2 with the miscellaneous application bearing CM No.8090-C of 2016. The zimni order dated 19.6.2009 reads as under:

“suit filed today before me during summer vacation as I am on duty. Along with suit plaintiff has filed an application for seeking permission to institute a suit during summer vacation, being of urgent matter. Keeping in view the urgency involved in the matter in issues, plaintiff is permitted to institute suit during summer vacation. Notice of the suit as well as injunction application be issued to the defendant for 3.7.2009 on PF etc.”

Thus, the suit was filed within law of limitation. He submits that the suit was listed for filing of the written statement for 3.7.2009. The zimni order dated 3.7.2009 reads as under:

“File put up before me as I am on duty. Sh.Joginder Singh Advocate appeared on behalf of defendant and

file power of attorney. He is directed to file w/s and reply to stay application on 14.7.09"

I have heard learned counsel for the parties. As per zimni order aforementioned, the suit cannot be said to be barred by law of limitation and in case the execution of pronote and receipt is established, a presumption under Section 118(a) of the Negotiable Instruments Act, 1881 is drawn of passing of consideration.

The appreciation of oral as well as documentary evidence by the Courts below is not shown to be erroneous in any manner requiring interference by this Court.

Dismissed.

September 23,2016
KD

(AMIT RAWAL)
JUDGE