

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

RSA-1216 of 2016 (O&M)

Date of decision: 21.03.2016

Brahm Parkash Manav

...Appellant

Versus

Shiv Kumar

...Respondent

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Sanjay Mittal, Advocate
for the appellant.

Jitendra Chauhan, J. (Oral)

CM-3428-C-2016

Keeping in view the averments made in the application, the same is allowed. The delay of 09 days in re-filing the present appeal is hereby condoned.

RSA-1216-2016

The suit for recovery filed by the plaintiff/respondent was decreed by the trial Court, vide judgment and decree dated 11.04.2013.

2. Aggrieved against the findings of trial Court, the

defendant/appellant filed an appeal which was dismissed by the learned Appellate Court, vide judgment and decree dated 31.07.2015.

3. The Appellate Court affirmed all the findings recorded by the trial Court after discussing and evaluating the oral as well as documentary evidence on record, hence, the instant appeal has been filed by the defendant/appellant.

4. The brief facts of the case are that on 15.07.2008, appellant/defendant had raised a loan of Rs.2 lacs from the respondent/plaintiff to raise construction of his school and in lieu of the loan, a pronote and receipt were executed by the defendant in favour of the plaintiff at agreed rate of interest @ 4% per month. The plaintiff claimed interest @ 2% per month from the date of advancing the loan, however, the appellant did not repay the loan amount despite repeated requests.

5. It is contended by learned counsel for the appellant that both the Courts below have gravely erred in passing the impugned judgments by holding that the consideration had been paid to the defendant/appellant and the pronote had been executed in the presence of witnesses. Both the Courts below have failed to consider the fact that different ink had been used

on the pronote. There were lot of contradictions in the statement of the witnesses produced by the plaintiff/respondent but both the Courts below have failed to consider the above aspect of the matter.

6. Heard, the learned counsel for the appellant.

7. The plaintiff/appellant had filed suit for recovery against the defendant/appellant alleging that on 15.07.2008, the appellant had borrowed Rs.2 lacs from the respondent to raise construction of his school. A pronote Ex. PW1/B and receipt Ex.PW1/C were also executed in favour of the respondent at the time of advancing the loan, however, the appellant refuted the claim of the respondent by asserting that he never obtained any loan from the plaintiff. However, the appellant admits that on 15.07.2008, the plaintiff got four different pronotes executed from him in respect of the transaction of land and the same was without consideration. The appellant/defendant in his testimony had admitted that only Rs.50,000/- was taken by him and he also admitted his signatures on the alleged pronote and receipt. Further, PW-1, Ram Chander Yadav, the attesting witness had duly corroborated the stand taken by the plaintiff. The appellant/defendant had also admitted that he had no enmity with

the attesting witness. The appellant had failed to show any document to assert that the said pronote and receipt was given for some purchase and sale of land and the same was without any consideration.

8. Therefore, in view of above facts and circumstances of the case, this Court is of the opinion that both the Courts below have rightly dealt with the issues in the right perspective. There are concurrent findings recorded by the Courts below on the facts of the case, which have been found to be based on proper appreciation of the pleadings and the evidence produced by the parties. Therefore, this Court finds that the contentions have no merit as they only relate to the appreciation of evidence. No evidence is shown to have been ignored from consideration, nor there is any misreading of evidence.

9. These are pure findings of fact. No question of law, much less substantial question of law arises in the present appeal.

Dismissed.

21.03.2016

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(JITENDRA CHAUHAN)
JUDGE