

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

RSA-1487 of 2016 (O&M)

Date of decision: 04.04.2016

Pal Singh @ Pala Singh

...Appellant

Versus

M/s Amarnath Janakraj Commission Agents

...Respondent

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Deepak Bhardwaj, Advocate
for the appellant.

Jitendra Chauhan, J. (Oral)

The suit for recovery filed by the plaintiff/respondent (for short 'the respondent') was decreed by the trial Court, vide judgment and decree dated 22.05.2013.

2. Aggrieved against the findings of trial Court, the defendant/appellant (for brevity 'the appellant') filed an appeal which was dismissed by the learned Appellate Court, vide judgment and decree dated 05.08.2015.

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 appellant.

4. The brief facts of the case are that on 15.05.2008, appellant had raised a loan of Rs.4 lacs @ 1.50% interest per month on the principal amount from the respondent and in lieu thereof, pronote and receipt were executed on the same day in the presence of marginal witnesses. However, neither the loan amount nor the interest could be paid to the respondent despite repeated requests. Thereafter, the respondent preferred the civil suit which was decreed, along with interest. Appellant, Pal Singh filed civil appeal which was dismissed with costs on 05.08.2015, by Additional District Judge, Patiala. Hence, the present Regular Second Appeal, has been filed by defendant Pal Singh.

5. It is contended on behalf of the appellant that both the Courts below have gravely erred in passing the impugned judgments and decrees by ignoring the fact that the appellant is an illiterate person. The appellant being a farmer used to sell his produce to the respondent's firm till the year 2003, therefore, there was no occasion for the appellant to raise loan in the year 2008. This fact had been duly substantiated by the testimony of PW-1, Janak Raj, proprietor of the firm wherein he had admitted

that after 2003, the appellant was not on talking terms with the respondent as he had left farming. The pronote and receipt, if any are result of fraud committed upon the appellant. However, both the Courts below have failed to consider the above aspect of the matter.

6. Heard, the learned counsel for the appellant.

7. The respondent had filed suit for recovery against the appellant alleging that on 15.05.2008, the appellant had taken a loan of Rs.4 lacs from the respondent-firm. Pronote cum receipt Ex. P1 and Ex.P2 were also executed in favour of the respondent-firm at the time of advancing the loan, however, the appellant refuted the claim of the respondent by asserting that he never raised any loan from the plaintiff and the said pronote and receipt, Ex.P1 and Ex.P2 were fabricated and forged documents. A bare perusal of the record would reveal that PW-1, Janak Raj, proprietor of respondent's firm had duly proved the pronote and receipt on record. The factum of advancing the loan is duly corroborated by the testimony of PW-2, Dalbara Singh and PW-3, Balwinder Singh, the attesting witnesses of the loan transaction. Both the witnesses have duly testified the pleadings, as raised by the respondent, before the Courts below. Further,

perusal of Ex.P5 to Ex.P10, the self attested copies of account books also prove that the appellant had obtained the loan from the respondent-firm. The appellant has failed to bring on record any cogent evidence or any document to assert that the said pronote and receipt are fabricated documents.

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. Neither any 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 in limine.

04.04.2016

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(JITENDRA CHAUHAN)
JUDGE