

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

RSA No. 4073 of 2013 (O&M)
Date of decision : January 11, 2016

Nasib Singh

..... Appellant

Versus

M/s Ram Bagh Trader

..... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. R. S. Tacoria, Advocate
for the appellant.

Mr. V. B. Aggarwal, Advocate
for the respondent.

1. Whether reporters of local papers may be allowed to see the judgment ?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

Amit Rawal, J (oral).
CM No.11049-C of 2013

This is an application under Section 151 CPC seeking condonation of delay in refiling the appeal.

For the reasons stated in the application, which is duly supported by an affidavit, delay of 7 days in refiling the appeal is condoned.

The application stands disposed of.

RSA No. 4073 of 2013 (O&M)

The appellant-defendant is in Regular Second Appeal against concurrent finding of fact whereby the suit for

recovery of a sum of ₹3,34,833.52 along with interest at the rate of 6% per annum from the date of filing of the suit till the realization has been decreed.

Learned counsel for the appellant-defendant submits that the original private account book/bahi entries have not been proved on record by the respondent. In support of his contentions he has relied upon the judgment of Hon'ble Supreme Court in **Ishwar Dass Jain (Dead) through L.Rs Vs. Sohan Lal (Dead) through L.Rs 2000 (1) RCR (Civil) 168.** He has drawn attention of both the courts below to the bahi entry Ex. P-7 whereby an entry of ₹1,68,909.12 alleged to have been inserted later on.

He further submits that in all the bahi entries remaining balance was written in a different manner than the one relied upon by the respondent-plaintiff, thus, a substantial question of law arise for determination by this Court.

Learned counsel for the respondent-plaintiff submits that the original of all the documents have been brought on record which have been seen and returned. Photocopies of the same had been exhibited. The appellant-defendant to a specific question in the cross examination admitted his signatures on Ex.P-7 and both the courts below have concurrently rendered finding in favour of plaintiff. In support of his contentions he has relied upon the judgment rendered by this Court in **M/s Maruti Ltd. And another Vs. M/s M. H. Tractor and Automobiles Corpn.and another 1988 (2) PLR 312.**

I have heard learned counsel for the parties, appraised the paper book as well as record of the courts below.

The respondent-plaintiff when appeared in the witness box as PW-1 tendered copies of the documents i.e. books of accounts by bringing the original which were seen by the trial court and returned this fact is evident from the statement of PW-1 at page 185 of the record of the trial court. Not only this, the appellant-defendant in the cross examination admitted his signatures on Ex.P-7. After having seen the original, the plea of learned counsel for the appellant that the original account book has not been placed on record pales insignificant, much less the ratio decidendi culled out in **Ishwar Dass Jain (Dead)'s case (supra)** would not be applicable to the facts and circumstances of the present case. It is a settled law that the handwriting expert always favour or tilt the person who engages them.

I do not intend to differ with the finding rendered by both the courts below which is based on appreciation of oral and documentary evidence. I do not find any illegality or perversity in the aforementioned judgments and decrees of the courts below.

No substantial question of law arise for determination by this Court.

In view of what has been observed above, the appeal is devoid of merits, accordingly, the same is dismissed.

(AMIT RAWAL)
JUDGE

January 11, 2016
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