

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

RSA-1058 of 2015 (O&M)

Date of decision: 15.01.2016

Jagtar Singh

...Appellant

Versus

Khazan Chand

...Respondent

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. S.S. Gill, Advocate for the appellant.

Jitendra Chauhan, J.

By way of the present appeal, the defendant/appellant has assailed the judgment dated 29.09.2014, passed by Addl. District Judge, Sirsa, upholding the judgment dated 19.09.2011, passed by Addl. Civil Judge (Sr. Divn.), Sirsa, whereby the suit for recovery filed by the plaintiff/respondent was decreed.

On behalf of the appellant, it is contended that both the Courts below have gravely erred while passing the impugned judgments. The appellant is not the proprietor of M/s Harman Trading Company and he has no business dealings with the

plaintiff (respondent herein).

Heard.

The Court has perused the entire record. It is established on record that the parties had dealing with each other. It is also further established on the basis of evidence led and the documents Ex. PW1/B and Ex. PW1/G-J placed before the Courts below that the appellant is the partner of M/s Harman Trading Company. The argument of learned counsel for the appellant that the present appellant is not a partner of the firm M/s Harman Trading Company, Commission Agent, Sirsa is repelled simply on the ground that the fact of his not being a partner of the firm, has not been specifically denied in the written statement. His denial in the testimony is of not much help as the party cannot go beyond his pleadings. It is relevant to mention here that neither in this appeal nor in the appeal before the 1st Appellate Court has been filed for and on behalf of the firm, so the judgment of trial Court qua the firm has already become final. Thus, on consideration, 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.

In Kashmir Singh Vs. Harnam Singh and another,

2008(2) RCR (Civil) 688, it has been held as under:-

“17. The general rule is that High Court will not interfere with concurrent findings of the Courts below. But it is not an absolute rule. Some of the well recognized exceptions are where (i) the courts below have ignored material evidence or acted on no evidence; (ii) the courts have drawn wrong inferences from proved facts by applying the law erroneously; or (iii) the courts have wrongly cast the burden of proof. When we refer to 'decision based on no evidence', it not only refers to cases where there is a total dearth of evidence, but also refers to any case, where the evidence, taken as a whole, is not reasonably capable of supporting the finding.”

Under issue No.1, the learned Addl. Civil Judge (Sr. Divn.) has held that the plaintiff is entitled to recover the amount along with interest @ 9% p.a., from the date of borrowing the amount i.e., from 08.10.2004 till its payment. This finding of the lower Court on issue No.1 has been affirmed by the Appellate Court. These are pure concurrent findings of fact. No question of law, much less substantial question of law arises in the present appeal. Hence, no interference is called for.

Dismissed.

15.01.2016

sumit.k

(JITENDRA CHAUHAN)
JUDGE