

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

**RSA No.2669 of 2016 (O&M)
Date of Decision.22.11.2016**

Balwant Singh (since deceased) through LRsAppellant

Vs

KaramveerRespondent

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

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

-.-

AMIT RAWAL J. (ORAL)

C.M. No.7158-C of 2016

For the reasons stated in the application, permission to make good the deficiency of court fee is granted.

Application is allowed.

RSA No.2669 of 2016

The appellant-defendant is aggrieved of the concurrent finding of fact decreeing the suit of the respondent-plaintiff for recovery of amount of ₹10,80,512.06 along with interest @6% per annum including presuit interest w.e.f. assessment year 1.4.2007 till date of its realization, in case decretal amount is paid within one month, failing which interest @9% per annum has been ordered.

Learned counsel appearing for the appellant submits that there was a manipulation in Ex.P7 regarding entry of ₹2,57,550/- and ₹20,000/-. Even the respondent-plaintiff has not been able to prove the entry of ₹8,58,498.67 as reflected in Ex.P10. The plaintiff has miserably failed to prove the claim, much less, discharged the onus as per the provisions of

discharge the onus *viz-a-viz* the amount claimed. In the absence of the same, the Courts below ought not to have decreed the suit as the suit was liable to be dismissed. Even the expert examined in this regard has supported the case of the defendant qua manipulations yet the Courts below have erroneously decreed the suit, much less, dismissed the appeal filed against thereof, thus, urges this Court for setting aside the judgments and decrees under challenge.

I have heard learned counsel for the appellant, appraised the paper book and of the view that the oral and documentary evidence particularly the account books, which carry presumption of truth as per provisions of Section 34 of the Indian Evidence Act have been examined threadbare. This Court has also assumed the role of expert under Section 45 of the Indian Evidence Act and while looking at the entries Ex.P7, there does not appear manipulation in insertion of figure of ₹2,57,550/- and ₹20,000/-. The predecessor-in-interest of the appellant-defendant Balwant Singh who appended his signature had acknowledged the outstanding amount. In view of the aforementioned fact and the last acknowledgment of May, 2006, the suit filed on 28.08.2008 is within limitation.

For the reasons aforementioned, I do not intend to differ with the findings rendered by the Courts below as the same are based upon correct appreciation of fact and law, much less, the arguments of learned counsel for the appellant have not able to cut the ice to form a different opinion. No ground for interference is made out. The second appeal is dismissed.

(AMIT RAWAL)
JUDGE

November 22, 2016
Pankaj*

Whether reasoned/speaking Yes

Whether reportable No