

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

RSA No.560 of 2013 (O&M)

Date of Decision.06.09.2016

M/s Ajay Commission Agent and another

.....Appellants

Vs.

Sukhwant Singh and another

.....Respondents

Present: Mr. Rakesh Kumar, Advocate
for the appellants.

Mr. Jagjit Singh, Advocate
for respondent No.1.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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)

C.M. No.1607-C of 2013

For the reasons stated in the application, the appellants are permitted to make good the deficiency of court fee.

Application is allowed.

C.M. No.1608-C of 2013

For the reasons stated in the application, delay of 4 days in filing the appeal is condoned.

Application is allowed.

C.M. No.1609-C of 2013

For the reasons stated in the application, delay of 122 days in refiling the appeal is condoned.

Application is allowed.

The appellants-defendants are aggrieved of the decretal of the suit seeking recovery of ₹85,000/- along with interest @9% simple interest w.e.f. 06.10.2014 till realization in full and final.

Mr. Rakesh Kumar, learned counsel for the appellants submits that the Courts below have committed illegality and perversity in relying upon the receipt which had not been proved in accordance with law. It is self-serving document of the plaintiff as it has come from his custody. The plaintiff has failed to prove the signatures of the defendant on the receipt. The lower Appellate Court has failed to consider the fact that the finding on issue Nos.1, 2 and 3 are erroneous based upon self-calculation and speculation, much less, hypothesis. The document is unenforceable having no concern with the appellants with regard to their business transaction. The findings of Courts below are based on incorrect appreciation of evidence, thus, urges this Court for setting aside the judgments and decrees under challenge.

Per contra, Mr. Jagjit Singh, learned counsel appearing for the respondent-plaintiff submits that the plaintiff had sold a Weigh Bridge Scale to the defendant for a sum of Rs.1,86,000/- and the defendant paid Rs.1 lac and odd amount by cash and regarding remaining, defendant had undertaken to pay the same vide receipt/letter dated 01.10.2004. Having failed to adhere to promise, a legal notice dated 17.12.2004 was served and accordingly, the suit was filed on 27.01.2006. Rightly so, the Courts below decreed the suit as the receipt has been proved in accordance with law, thus, urges this Court for confirming the findings rendered by the Courts below.

I have heard learned counsel for the parties, appraised the paper book and of the view that there is no force and merit in the submissions of

Mr. Rakesh Kumar, for, receipt is on the letter head of the defendant and the defendant has not been able to belie his signatures on the receipt. The aforementioned receipt has also been proved through the testimony of the witnesses. The plaintiff has been able to over rule the objections with regard to exhibition and proving of the receipt. In my view, the receipt rightly so, is acknowledgment of a debt and the suit having been filed in 2006 was within the period of limitation. It was legally enforceable document and arguments of Mr. Rakesh Kumar, learned counsel for the appellant in this regard has no force. There is no force in the submission of Mr. Rakesh Kumar that the plaintiff has failed to prove the relationship between the executor of the receipt and the appellants.

For the foregoing reasons, I am of the view that the Courts below have decided the suit in preponderance of the evidence. I do not find any reason to differ with the findings rendered by the Courts below as the same are based upon correct appreciation of documentary as well as oral evidence, much less, no substantial question of law arises for consideration. No ground for interference is made out. The second appeal is dismissed.

(AMIT RAWAL)
JUDGE

September 06, 2016
Pankaj*

Whether reasoned/speaking Yes

Whether reportable No