

RSA No.2650 of 2015

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

RSA No.2650 of 2015

Date of Decision: February 18, 2016

M/s Braham Kumar & Co.

...Appellant

Versus

Gurdev Singh & others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. G.S. Sandhu, Advocate
for the appellant.

AUGUSTINE GEORGE MASIH, J. (Oral):

Challenge in this appeal is to the judgment and decree passed by the Additional Civil Judge (Senior Division), Jagraon, dated 03.11.2011, whereby, the suit for recovery of ₹5,14,769.25/-, i.e. principal amount of ₹3,78,507/- and ₹1,36,262.52/- as interest at the rate of 1% per month, totaling the amount as mentioned above alongwith interest, has been partly decreed in favour of the appellant-plaintiff with costs and recovery of ₹20,000/- as principal amount alongwith interest at the rate of 8% per annum from the date of entries dated 28.11.1996 and 10.02.1997, till filing of the suit and at the rate of 6% per annum from the date of filing the suit till the date of actual realization of the decretal amount, appeal against which preferred by the appellant-plaintiff stands dismissed by the Additional

District Judge, Ludhiana, on 17.11.2014.

It is the contention of the learned counsel for the appellant that the findings as recorded by the Courts below cannot be accepted as the entries Ex.P-2 to Ex.P-9 have wrongly been shown to be barred by limitation especially when entry dated 16.11.1996 Ex.P-10 which is signed by Mohinder Singh, after making payment of ₹9,000/- acknowledges the receipt of the amount due. He contends that the Courts below have not appreciated the report of Hand-Writing and Finger Print Expert as produced by the appellant-plaintiff, Anil Kumar Gupta (PW-3), who has proved the disputed signatures to be genuine to be that of Mohinder Singh. He, thus, contends that the judgments and decree passed by the Courts below denying him the total recovery amount as claimed alongwith interest cannot sustain and deserve to be set aside.

I have considered the submissions made by the learned counsel for the appellant and with his able assistance have gone through the impugned judgments but do not find any illegality in these judgments.

It is not in dispute that going *stricto sensu* by the Limitation Act, the entries for which claim has been denied being barred by limitation cannot be faulted with. The entries after 16.11.1996 (Ex.P-10) i.e. 28.11.1996 and 10.02.1997 have been accepted to be within limitation and the decree has accordingly been

passed alongwith interest. The crucial entry, therefore, to bring the transactions is dated 16.11.1996 (Ex.P-10). The two Hand-Writing and Finger Print Expert witnesses who have appeared for the respective parties, have given contradictory statements as each of the expert witness have supported the version of the parties for whom they have appeared. The Courts, therefore, have relied upon the pleadings and the other evidence brought on record to come to the conclusion that the signatures as appended on the entry dated 16.11.1996, alleged to be of Mohinder Singh, is not his signatures. The findings, thus, recorded by the Courts below cannot be faulted with.

Section 18 of the Limitation Act lays down that the acknowledgment of the payment should be made in the handwriting or in the writing signed by the person making payment. The limitation, therefore, cannot be saved in the case of the appellant-plaintiff as the acknowledgment of the payment has not been proved to be duly signed by Mohinder Singh. The findings, thus, recorded by the Courts below cannot be said to be illegal or not in accordance with law.

A perusal of the impugned judgments would show that the concurrent findings returned by both the Courts below are based on proper appreciation of the pleadings and the evidence brought on record which do not call for any interference by this Court as there is

RSA No.2650 of 2015

no misreading or non-consideration of the material on record nor is there any perversity or illegality in the same.

No substantial question of law arises in the present appeal which requires consideration of this Court. Therefore, finding no merit in the appeal, the same stands dismissed.

February 18, 2016

Harish

**(AUGUSTINE GEORGE MASIH)
JUDGE**