

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

**R.S.A.No.4641 of 2016 (O&M)**

**Date of Decision: September 19<sup>th</sup>, 2016**

**Darshan Singh**

**...Appellant**

**Versus**

**M/s Harinder Singh Amarjeet Singh Commission Agents Grain Market,  
Sirhind Mandi, Tehsil and District Fatehgarh Sahib**

**...Respondents**

**CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE**

**Present: Mr.S.D.Sharma, Senior Advocate with  
Mr.Ved Priya Malik, Advocate,  
for the appellant.**

**\*\*\*\*\***

**AMIT RAWAL, J. (Oral)**

Appellant-defendant is aggrieved of the impugned judgment and decree, whereby the suit for recovery of ₹5,74,572/- has been decreed along with 9% pendente lite and 6% future interest from the date of filing of the suit till the realisation of decretal amount.

Mr.S.D.Sharma, learned Senior Counsel assisted by Mr.Ved Priya Malik, learned counsel for the appellant-defendant submits that the suit filed on 25.4.2012 is, *ex-facie*, barred by law of limitation. As per the averments made in the suit, much less evidence led on behalf of the appellant-defendant per pleading, such transaction of loan was in the month of May, 2008. No doubt, the Court had framed the issue of limitation as issue No.4, but placed the onus upon the appellant-defendant. There is no finding vis-a-vis that fact. Even the suit in the absence of the statement of

account as per the provisions of Order 7 Rule 17 CPC was not maintainable. All these factors have not been taken care of, resulting into erroneous and perverse findings.

I have heard the learned counsel for the appellant-defendant and appraised the paper book.

On the last date of hearing, in order to appreciate the aforementioned argument, this Court had summoned the record. On examination of the record, it reveals that Ex.P26 is Bahi Khata/account books dated 6.5.2009, where signature of Darshan Singh is available. Appellant-defendant has failed to belie his signatures on the aforementioned document, except the self-serving statement in the written statement, in essence no evidence has been led.

Issues No.1, 2, 4 and 5 were taken together by the trial Court, much less the Lower Appellate Court while rendering the findings and on the aforementioned premise decreed the suit. This Court called upon Mr.Sharma to read any piece of evidence to discharge the onus of limitation, so that the plaintiff could have rebutted the same, but the answer was in the negative. Once the appellant-defendant has not led any evidence to discharge the onus of limitation, *prima-facie*, on going through the documents, particularly Ex.P26, the entry of 6.5.2009 and the suit having been filed on 25.4.2012 was within limitation. The account books carry a presumption of truth as per Section 34 of the Indian Evidence Act unless rebutted and strict non-compliance of Order 7 Rule 17 CPC would not entail into dismissal of the suit.

For the foregoing reasons, no ground for interference is made out, much less no substantial question of law arises for determination by this

Court.

Appeal stands dismissed.

**September 19<sup>th</sup>, 2016**  
**ramesh**

**( AMIT RAWAL )**  
**JUDGE**

**Whether speaking/reasoned**

**Yes/No**

**Whether Reportable:**

**Yes/No**