

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

RSA-494-2015 (O&M)

Date of decision: 29.01.2016

Mukesh Kumar

...Appellant(s)

Versus

Parbhati Singh

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Mukesh Yadav, Advocate,
for the appellant(s).

JITENDRA CHAUHAN, J.

CM-1354-C-2015

Heard.

Delay of 72 days in re-filing the appeal is condoned.

RSA-494-2015 (O&M)

The instant regular second appeal has been preferred against the judgment and decree dated 05.07.2013, passed by the learned Civil Judge (Junior Division), Mohindergarh (for short, 'the trial Court'), whereby, the suit of the plaintiff-appellant has been dismissed; and judgment and decree dated 21.05.2014, passed

by the learned Additional District Judge, Narnaul (for short, the first Appellate Court), whereby, the appeal preferred by appellant against the impugned judgment and decree dated 05.07.2013, of the trial Court, has been dismissed.

The plaintiff filed suit for recovery of Rs.84,800/- (Rs.80,000/- as principal amount along with Rs.4,800/- as interest) from the defendant. The learned trial Court dismissed the suit.

The learned first Appellate Court affirmed all the findings recorded by the trial Court after discussing and evaluating the oral as well as documentary evidence on record and dismissed the appeal of the plaintiff vide impugned judgment and order dated 21.05.2014.

Hence, this appeal at the behest of the plaintiff.

Learned counsel for the appellant has submitted that the defendant took a loan of Rs.80,000/- on 09.09.2007 and executed a pronote Ex.PW1/B and receipt Ex.PW1/C in this regard. Both the documents have been signed by the defendant. The fact of advancement of loan is also admitted by the defendant.

I have heard learned counsel for the appellant and gone through the case file.

In the present case, the factum of advancement of loan by the plaintiff to the defendant is admitted. In his cross-

examination, the plaintiff stated that at the time of the scribing of pronote, Sunder Singh, the attesting witness and another family member were also present, however, none of them was examined by him. The plaintiff also denied the meeting of Panchayat or any writing made by him before the Panchayat. The defendant had brought on record the copy of the statement of Panchayat members, Ex.D5, clearly stating that on 03.11.2007, a Panchayat was convened and the plaintiff had received the borrowed amount from the defendant. The plaintiff had also assured of returning the pronote to the defendant but the same was not honoured leading to another meeting of the Panchayat, which passed a resolution to the effect that no proceedings against the defendant would be initiated by the plaintiff and in case, the plaintiff initiates any proceedings against the defendant, the pronote in question shall be considered as a forged document. The defendant has also proved certified copy of the report dated 24.03.2008, prepared by ASI Ram Karan, which categorically records that the defendant arranged the amount after the sale of his land and out of the consideration received, the amount of loan was repaid to the plaintiff in the presence of the witnesses. The statements of defendant and other witnesses, corroborating the contents of the report were also placed on record as Ex.D4 to D13. A perusal of the police report, Ex.D14 also

reveals that as against the stand of the plaintiff, the signatures of Surender Singh, a friend of the plaintiff, who was stated to be present at the time of execution of the pronote and receipt, were found on the photocopy of pronote and receipt, Mark D1 and D2, respectively, handed over to the defendant by Panchayat. Thus, the authenticity of the documents relied upon by the plaintiff, i.e. pronote Ex.PW1/B and the receipt, Ex.PW1/C, is rendered doubtful.

In the above background, this Court does not find any perversity with the findings returned by the learned Courts below, which call for any interference by this Court. No question of law, much less substantial question of law arises in the present appeal. Hence, no interference is called for.

Dismissed in limine.

29.01.2016

atulsethi

(JITENDRA CHAUHAN)
JUDGE