

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

RSA No.6768 of 2016 (O&M)

Date of Decision.23.12.2016

S.K. Khurana

.....Appellant

Vs

Ghanshyam Sharma

.....Respondent

Present: Mr. D.R. Punia, Advocate
for the appellant.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J. (ORAL)

C.M. No.17654-C of 2016

For the reasons stated in the application, delay of 1 day in filing the appeal is condoned.

Application is allowed.

RSA No.6768 of 2016

The appellant-defendant is aggrieved of the concurrent finding of fact whereby the suit for recovery of amount of ₹1 lac along with interest @2% per month from the date of filing of the suit till realization, has been decreed.

Mr. Punia, learned counsel appearing for the appellant submits that as regard the plea of cheque, in fact, the appellant-defendant had already paid the amount but the respondent-plaintiff did not issue any receipt. This fact was specifically asked in the cross-examination but he did not admit or deny it. All these facts were ignored by both the Courts below while decreeing the suit. It was some other transaction i.e. with Mr. O.P.

Tiwari, who had to pay ₹2,10,060/- which he received as compensation of

his land at Bhatia Colony, Ballabgarh, acquired by the Haryana Government

for developing Sector 2, Ballabgarh. Ghanshyam Sharma, plaintiff, had been insisting and persisting the appellant-defendant for refund of the money. It is in this backdrop of the matter, the appellant issued the cheque. In fact, the transaction was only with O.P. Tiwari, thus, there is gross illegality and perversity.

I have heard learned counsel for the parties, appraised the paper book and of the view that there is no merit in the submissions of Mr. Punia. Once the cheque has been issued in discharge of the liability, the appellant-defendant cannot deny the same. Explanation given in the written statement has not been proved with direct, cogent, much less, corroborative evidence. Once the cheque had been issued and it was dishonoured, the remedy for the respondent-plaintiff was to seek recovery.

For the reasons aforementioned, I do not intend to differ with the findings rendered by both the Courts below as the same are based upon preponderance of evidence. No ground for interference is made out. The second appeal is dismissed.

(AMIT RAWAL)
JUDGE

December 23, 2016

Pankaj*

Whether speaking/reasoned Yes

Whether reportable No