

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

**RSA No.4132 of 2014 (O&M)
Date of decision:15.11.2016**

M/s Sai Medicos, Machli Bazar and another ... Appellants

Vs.

Neelam Singh and another ... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Pavan Malik, Advocate, for
Mr. Kulbhushan Soi, Advocate
for the appellants.

AMIT RAWAL J. (Oral)

C.M.No.9598-C of 2014

For the reasons stated in the application, duly supported by an affidavit, delay of 48 days in filing the appeal is condoned.

C.M. stands disposed of.

RSA No.4132 of 2014 (O&M)

The appellant-defendants are aggrieved of the concurrent findings of facts and law, whereby, the suit for recovery of ₹2,11,613/- along with pendent lite and future interest @ 6% per annum from the date of institution of the present suit till realization, has been decreed.

Mr. Pavan Malik, learned counsel appearing on behalf of the appellant-defendants submits that suit aforementioned was filed on the basis of the cheques having been issued by the respondents to the appellants. In fact, the aforementioned cheques were in lieu of the loan extended. The

Courts below have not appreciated the aforementioned fact. Only one witness, out of two had appeared in the witness box. Withholding of the second plaintiff from the cross-examination and non-appearance amounts to non-discharging of the burden, yet the Court below has erroneously decreed the suit.

I have heard learned counsel for the appellant-defendants and appraised the judgments and decrees of the Courts below and of the view that it is incumbent upon the defendants to prove the grant of loan and having received the cheques in lieu thereof. Having failed to do so, the other documents placed on record show that the cheques were issued to the defendants by extending the loan, particularly when the parties to the lis are relatives. Having not paid the amount despite the demand raised, the suit aforementioned was filed, which has rightly been decreed.

In view of the aforementioned observations, I do not intend to differ with the findings rendered by both the Courts below which are based upon the appreciation of oral and documentary evidence, much less, no substantial question of law arises for determination of this Court.

Accordingly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

November 15, 2016
savita

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No