

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

RSA No.4274 of 2014 (O&M)

Date of Decision.14.09.2016

Shushpal Kaur and others

.....Appellants

Vs

Iqbal Singh

.....Respondent

Present: Mr. S.S. Sodhi, Advocate
for the appellants.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J. (ORAL)

The appellants-defendant Nos.2 to 4 are aggrieved of the concurrent finding of fact whereby the suit of the respondent-plaintiff for recovery of ₹1,30,000/- with interest @9% from the date of pronote till decree and future interest @6% from the date of decree till the realization of the decree has been decreed.

Mr. S.S. Sodhi, learned counsel appearing for the appellants submits that both the Courts below have committed illegality and perversity in decreeing the suit as the plaintiff, has miserably failed to prove, due execution of pronote and receipt Ex.P1 and P2. The plaintiff categorically admitted that there was no friendship or relationship with Ravinder Singh (deceased) as well as his legal representatives. He submits that PW-2, Kailash Chand Gupta, Advocate, the alleged scribe is untrustworthy and unreliable and his admissions ought not to have been accepted. He further submits that both the Courts below have committed gross illegality while allowing the respondent-plaintiff to continue with the evidence after the statement of the said witness was, prima facie, held to be untrustworthy. In

Kailash Chand Gupta, Advocate was the master mind, who not only filed the present suit for recovery but had played a vital role in preparing and fabricating the documents Ex.P1 and P2. In fact, he has not cleverly mentioned the name, parentage as well as addresses of the witnesses on the aforementioned documents. PW2, scribe of the alleged documents also failed to prove the due execution, much less, passing of the amount as contradictory stand had been taken by the witnesses. The other marginal witness namely Kamaljit Singh had not been produced. In such case, his evidence had been withheld which was crucial to the case and the Courts below ought to have dismissed the suit on this ground alone. Ex.P3 to P7 had not been proved in accordance with law. Statement of PW-3, fingerprint and handwriting expert, is inconsequential as the appellants-defendants being the heirs have denied the signatures of Ravinder Singh, predecessor-in-interest on Ex.P1 and P2, thus, urges this Court for setting aside the judgments and decrees under challenge by formulating the substantial questions of law as drawn in the memorandum of appeal.

I have heard learned counsel for the appellants, appraised the paper book and of the view that there is no force and merit in the submission of Mr. S.S. Sodhi as both the documents Ex.P1 and P2 have been proved on record through the testimony of plaintiff who appeared as PW1 and Kailash Chand Gupta, PW2, scribe of the pronote and Dr. Inderjit Singh, fingerprint and handwriting expert. The aforementioned documents carry presumption of truth as per the provisions of Section 118 of the Negotiable Instruments Act. In fact, the appellants-defendants have not been able to dispel the signatures of Ravinder Singh on the aforementioned documents i.e. Ex.P1 and P2. Nothing prevented them to contradict the

aforementioned statements. Story of having obtained the signatures on blank pronote is neither here nor there.

In my view, cumulative reading of the entire records leaves no manner of doubt that the appellants-defendants have failed to discharge the onus whether signatures of the loanee-Ravinder Singh were obtained on a blank or filled document. The alleged story of engaging Mr. Kailash Chand Gupta as an advocate by Ravinder Singh (since deceased) has also not been proved on record and also the allegation of involvement of Kailash Chand Gupta in preparing the forged and fabricated documents has not been proved through cogent and direct, much less, corroborative evidence.

For the reasons aforementioned, I do not find any reason to differ the concurrent finding of fact rendered by the Courts below as the same are founded upon correct appreciation of documentary as well as oral evidence, much less, no substantial question of law arises for consideration. No ground for interference is made. The second appeal is dismissed.

(AMIT RAWAL)
JUDGE

September 14, 2016
Pankaj*

Whether reasoned/speaking Yes

Whether reportable No