

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No. 3015 of 1994

Date of Decision: 04.08.2017

Kishan Chand and another

...Appellants

Vs.

Nirmal Singh and another

...Respondents

CORAM:-HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr. R.P. Dhir, Advocate,
for the appellants.

RAJIV NARAIN RAINA, J. (Oral)

The borrower under the promissory note got himself declared insolvent by Court and could not be proceeded against for recovery of money promised to be paid to the plaintiff. The unsuccessful defendants 2 and 3 are in appeal against the judgment and decree of the lower appellate Court. One of them was a Sarpanch of the village and had signed the pronote alongwith the borrower and it is urged that they had nothing to do with the promise to return loan for which the pronote was security.

The Court of first appeal has declared the appellants debtors under the pronote liable to pay the sum of ₹ 17,875/- in discharge of the amount in the instrument. The Court has treated the appellants as guarantors under the pronote after appreciating the oral as well as documentary evidence produced on record. If they had no role to play in the transaction between the plaintiff and the co-defendants, then person/s of ordinary intelligence would not have put their signatures on the pronote without due care and caution, unless they were party in the making of the

pronote and responsible to repayment when not signing as witnesses in case principal borrower fails to pay the money due under the pronote. The defendants did not declare in the pronote that they were acting in any other capacity which would not make them liable. The lower court held them sureties or guarantors of the loan with liability to discharge the debt and bound to pay back pronote holding plaintiff or face the legal consequences which non-payment by borrower entailed.

Therefore, I find no infirmity in the work of the First Appellate Court in reversing the judgment & decree of the trial Court and allowing the suit against defendants No.2 and 3 by passing a money decree. The view taken by the Court a quo is based on a proper analyses of the material placed during the suit.

Accordingly, the appeal has no substance and the same stands dismissed as no question of law arises for consideration and in the face of findings of fact arrived at after appreciating the evidence adduced by the parties.

(RAJIV NARAIN RAINA)
JUDGE

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<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>