

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

**RSA No. 2934 of 2016 (O&M)
Date of Decision: 20.01.2017**

Chhaju

... Appellant

vs.

Gurdayal

... Respondent

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

**Present:- Mr. J.P. Sharma, Advocate
for the appellant.**

ANITA CHAUDHRY, J.

This is plaintiff's regular second appeal against the concurrent findings recorded by the Courts below by virtue of which the suit filed by him against the respondent-defendant for recovery of Rs.45000/-, including principal and interest, had been dismissed.

The plaintiff staked his claim on the basis of entries made in the bahi acknowledging the amount claimed to be signed by the defendant. The defendant resisted the claim of the plaintiff and questioned the entries on the ground that he was an illiterate and did not know how to sign and the entries are forged.

After analyzing the evidence, both the Courts below non-suited the plaintiff. Dis-satisfied with the same, instant regular second appeal has been preferred.

I have heard learned counsel for the appellant and have gone through the paper-book carefully.

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It is apparent that an inconsistent version about the amount which was lent was taken by the plaintiff. The foundation of the case of the plaintiff was laid on the acknowledgment/ settlement dated 20.12.2003 vide which it was claimed that the defendant admitted to owe Rs. 15,376 towards the plaintiff, whereas while deposing before the Court it was claimed that a sum of Rs.17,000/- was advanced to the defendant. The original entry of having borrowed principal amount was never produced by the plaintiff nor it was proved as to when it was advanced and in whose presence the entry was made and by whom. In absence thereof, the suit was held to be barred by limitation as prescribed under Section 19 of the Limitation Act, 1963. The acknowledgments dated 20.12.2003 and consequent dated 20.12.2005 were purported to have been signed by the defendant, whereas it was the positive case of the defendant that he is an illiterate and did not know how to sign. To prove his case, the defendant produced overwhelming evidence on record, while no evidence in rebuttal thereto was produced to prove that the signatures were of the defendant and accordingly the acknowledgments were held to be doubtful and it was rightly held that the defendant cannot be foisted with any liability on the basis of stray entries in the bahi.

I find no reason to interfere with the concurrent findings recorded by the Courts below which are neither illegal nor suffer from perversity. The findings are affirmed. No substantial question of law

arises for consideration in this appeal. Dismissed in limine.

20.01.2017

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**(ANITA CHAUDHRY)
JUDGE**

Whether speaking/ reasoned

Yes/ No

Whether reportable

Yes/ No