

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No.102

RSA-660-2013

Decided on : 11.08.2017

Bhupinder Singh

..... Appellant

VERSUS

Sukhchain Singh

..... Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr.Tushar Sharma, Advocate, for the appellant.

. . .

DEEPAK SIBAL, J. (ORAL)

The respondent who was the plaintiff before the Trial Court filed a suit seeking therein from the appellant/defendant recovery of Rs.13,76,000/- (Rs.8,00,000/- as principal and Rs.5,76,000/- as interest) .

While narrating the factual aspect of the matter, the status of the parties as before the Trial Court is being referred to.

As per the plaintiff, on 10.03.2004 the defendant borrowed from him a sum of Rs.8,00,000/- and agreed to return the same on demand alongwith interest. At the time of the above transaction a pronote and a receipt were duly executed. However, in the year 2006-07 when the plaintiff demanded the repayment of the loan amount, the defendant refused to return the same. A legal notice was got issued to the defendant by the plaintiff but when the same went unheeded to the present suit was preferred for the relief as referred to above.

Upon notice the defendant appeared before the Trial Court and denied having received any loan from the plaintiff. The pronote and receipt were termed as forged and fabricated. The defendant further submitted that he had taken a loan from a bank and at that time the manager of that bank was one

Gian Chand, who had made him sign a blank pronote, a receipt and a few cheques. The same Gian Chand, who also was the scribe of the pronote relied upon by the plaintiff, after having connived with the plaintiff had misused the afore-referred blank documents and made them the basis for filing of the present suit for recovery.

The Trial Court concluded that the suit filed by the plaintiff had merit and therefore decreed the same. The appellant/defendant appealed against such judgment and decree which was dismissed by the Appellate Court, giving him a cause to knock the doors of this Court through the present second appeal.

Learned counsel for the appellant has made a two-pronged attack upon the findings recorded in the impugned judgments and decrees. He submits that both the Courts have erred in not considering in their right perspective the issue raised by the appellant that the pronote and receipt which formed the basis of the suit were forged documents and that they had been manufactured by the respondent in connivance with the afore-mentioned Gian Chand. It was further submitted that the respondent had not reasonably explained the source of Rs.8,00,000/- at the time when he says that he had disbursed such amount to the appellant as loan.

I have considered both the above submissions but neither of them find favour with me.

The evidence on record clearly reveals that the respondent had produced and duly proved the execution of the pronote and receipt through his own testimony as also through the depositions of the marginal witness Saudagar Singh and the scribe Gian Chand. To refute the above, the only evidence found on the record to have been led by the appellant is his own bald statement. Once the respondent had discharged his onus, as above, it was then

up to the appellant to prove that the pronote and receipt were forged and fabricated documents. However, in that regard no worthwhile evidence was led and in the absence thereof, I am not perusaded to interfere with the concurrent findings on this issue recorded by both the Courts.

So far as the other issue that the respondent had not satisfactorily explained the source of Rs.8,00,000/- at the time of disbursement of such amount to the appellant is concerned, the same also carries no weight. The record reveals that the respondent had categorically stated that before disbursing of the loan in question he had sold land for Rs.19,00,000/- and out of those proceeds Rs.8,00,000/- were loaned to the appellant. Upon such statement by him and in view of the presumption under Section 118 of the Negotiable Instruments Act, 1881, the onus then shifted upon the appellant to rebut the presumption that the pronote and receipt were not for valid consideration. No evidence in that regard was led by the appellant.

No other issue was urged.

In view of the above, I find no question of law much less any substantial question of law in the present appeal warranting any interference on my part.

Dismissed.

11.08.2017
shamsher

[DEEPAK SIBAL]
JUDGE

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No