

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

**RSA No.5066 of 2016 (O&M)
Date of Decision: 15.09.2017**

Yashpal

.....Appellant

Vs.

Hukum Chand

.....Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Parveen Kaushik, Advocate, for the appellant.

RITU BAHRI, J. (ORAL)

CM No.13155-C of 2016

For the reasons stated in the application, delay of 32 days in filing the appeal is condoned.

Application stands disposed of.

RSA No.5066 of 2016

Learned counsel for the appellant has come up in second appeal against the judgment and decree dated 11.12.2015 and 25.05.2016 of the trial Court and appellate Court respectively, whereby suit filed by the plaintiff/respondent for recovery of Rs.8,37,900/- alongwith interest @ 9% per annum has been decreed in favour of him.

A perusal of the order shows that defence of the appellant/defendant was struck off as he did not choose to file written statement. The plaintiff has proved the mortgage deed (Ex.P1) by examining Dharamal (PW3) i.e. scribe of the mortgage deed and Maman Singh (PW5) as attesting witnesses with respect to execution of mortgage deed. The trial Court has decreed the suit in favour of plaintiff on the basis

of cogent evidence led on behalf of him to prove the fact that defendant have borrowed a sum of Rs.6,65,000/- and in lieu he had executed the mortgage deed pertaining to his agricultural land measuring 4 Kanal. Moreover, the defendant had even failed to rebut the claim of the plaintiff and his defence was struck off as he had failed to file his written statement within the statutory period and no evidence had been led on behalf of him which itself reflect that defendant had no defence to rebut the claim of the plaintiff. The learned appellate Court had also affirmed the judgment of the trial Court on the same ground.

So in the light of the discussion, the orders of the Courts below do not reflect any material irregularity or perversity which warranting interference. Hence. the present second appeal is dismissed.

(RITU BAHRI)
JUDGE

15.09.2017
anil

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No