

102.

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

Regular Second Appeal-1039-2014 (O&M)
Date of decision:13.01.2017

Sukhjinder Singh

... Appellant

versus

Chamkaur Singh

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr.Rajesh Bhateja, Advocate,
for the appellant.

HARI PAL VERMA, J.

CM-2390-C-2014

Prayer in the application filed under Section 149 CPC is for making good the deficiency in court fee.

For the reasons stated in the application, the same is allowed and the applicant is permitted to make good the deficiency in court fee.

CM-2394-C-2014

Prayer in the application filed under Section 5 of Limitation Act is for condoning the delay of 14 days in filing the appeal.

For the reasons stated in the application, the same is allowed and the delay of 14 days in filing the appeal is condoned.

CM-2391-C-2014

Prayer in the application filed under Section 151 CPC is for condoning the delay of 294 days in re-filing the appeal.

For the reasons stated in the application, the same is allowed and the delay of 294 days in re-filing the appeal is condoned.

CM-2392-C-2014

Regular Second Appeal-1039-2014

The appellant-defendant has filed the present Regular Second Appeal against the judgment and decree dated 30.05.2012 passed by learned Additional District Judge, Moga, whereby his appeal against the judgment and decree dated 24.01.2011 passed by learned Civil Judge (Junior Division), Moga was dismissed.

Briefly stated, the respondent-plaintiff filed a suit for recovery of ₹2,90,950/- against the appellant-defendant with an averment that the defendant had taken a loan of ₹2,30,000/- from the respondent-plaintiff in cash on 04.09.2002 and executed a pronote and receipt. The pronote was scribed by one Sukhmander Singh-a Document Writer, Moga. The contents of the pronote were duly read over to the appellant-defendant in the presence of one Gurmeet Singh of District Moga, and the defendant, after admitting the contents of the same to be correct and receiving the consideration of ₹2,30,000/- from the respondent-plaintiff, signed the pronote in Punjabi. Both the witnesses have also put their signatures. The appellant-defendant promised to repay the said amount along with interest @ 1.50% per month. The said amount was taken by the appellant-defendant for business purposes. In spite of repeated requests, reminders and presentation of pronote, the appellant-defendant neither made any payment towards principal nor paid interest. The plaintiff claimed interest on the borrowed principal amount i.e. ₹2,30,000/- @ 1% which came to ₹60,950/- and filed a suit for recovery of ₹2,90,950/-. The learned trial Court vide judgment and decree dated 24.01.2011 decreed the suit of the respondent-plaintiff for recovery of ₹2,90,950/- (i.e. ₹2,30,000/- as principal and ₹60,950/- towards interest) against the appellant-defendant with costs. The

respondent-plaintiff was also held entitled to charge pendente lite and future interest @ 6% per annum on the principal amount of ₹2,30,000/- till its realization.

The said judgment and decree dated 24.01.2011 passed by trial Court was made the subject matter of appeal before the learned Additional District Judge, Moga and the learned Appellate Court vide judgment and decree dated 30.05.2012 dismissed the appeal and observed as under:-

“19. It has been rightly held by the learned Lower Court that the appellant/defendant has admitted his signatures on pronote and receipt and the plaintiff/respondent has proved due execution of pronote and receipt and passing of consideration. It has been rightly held that the defendant borrowed a sum of Rs.2,30,000/- from the plaintiff by executing pronote and receipt in his favor. Even forgery and fabrication is not proved by the defendant/appellant and plaintiff has been rightly held entitle to recover the said amount from the defendant/appellant with interest.”

Aggrieved against the judgments and decrees passed by both the courts below, the appellant-defendant has filed the present appeal.

Learned counsel for the appellant has argued that both the courts below have erred in deciding the issue Nos.1 to 4 and 6 and have also ignored the documentary evidence as well as oral evidence led by the parties. He states that the scribe and the respondent-plaintiff were co-villagers. The respondent-plaintiff's father was a Commission Agent and the scribe was his 'yesman' and great supporter. He further argued that the respondent-plaintiff has alleged that he had given ₹2,30,000/- to the appellant-defendant on the basis of alleged pronote and receipt Exs.P1 and P2, but he (respondent-plaintiff) could not identify the appellant-defendant who was present in the court at that time. He further states that the signatures on the pronote were obtained on blank paper.

I have heard learned counsel for the appellant.

The argument as put forward by learned counsel for the appellant has duly been dealt with by the courts below. However, this Court has perused the record and the pronote signed by the appellant on 04.09.2002. The pronote and the receipt both carries the signatures of the appellant. In the pronote, as many as 5 revenue stamps have been affixed and the appellant had put his signatures covering all the 5 revenue stamps. So, the plea of the appellant that his signatures were received on a blank pronote cannot be accepted. Even the Deedwriter-PW3 had also supported the execution of the said pronote and from his register, it is clear that entry bears the signature of the appellant-defendant, but he had not satisfactorily explained as to how his signatures were obtained on the register of Deedwriter. Moreover, this Court does not find any substantial question of law for consideration in this appeal.

Accordingly, the present appeal stands dismissed.

CM-2393-C-2014

Prayer in the application filed under Order 41 Rule 5 CPC is for staying the operation of impugned judgments and decrees dated 24.01.2011 and 30.05.2012 respectively passed by the courts below.

Since the main appeal has been dismissed by this Court, the application has become infructuous and is dismissed as such.

(HARI PAL VERMA)
JUDGE

13.01.2017
sanjeev

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