

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

RSA No.6798 of 2016 (O&M)
Date of decision: 08.02.2017

Jagjit Singh

-----Appellant(s)

Vs.

Bahadur Singh

-----Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. Surinder Garg, Advocate
for the appellant.

HARI PAL VERMA, J. (Oral)

Appellant-defendant has filed the present Regular Second Appeal against judgment and decree dated 28.7.2016 passed by learned Additional District Judge, Sri Muktsar Sahib, whereby his appeal against judgment and decree dated 30.9.2015 passed by learned Civil Judge (Jr. Division), Malout was dismissed.

Briefly stated, the respondent-plaintiff filed a suit for recovery of Rs.1,06,400/- (Rs.76,000 as principal amount and Rs.30,400/- as interest) on the basis of pronote and receipt dated 27.8.2012. The said suit was decreed by learned Civil Judge (Junior Division), Malout vide judgment and decree dated 30.9.2015 and the respondent-plaintiff was held entitled to recovery the principal amount of Rs.76,000/- along with

interest @ 9% per annum from the appellant-defendant w.e.f. 27.8.2012 till the actual realization.

Aggrieved from the aforesaid judgment and decree passed by the trial Court, the appellant-defendant preferred an appeal before the first Appellate Court which was partly allowed and the judgment and decree passed by the civil court was modified to the extent that the respondent-plaintiff is entitled to recover the amount of Rs.76,000/- along with interest @ 9% per annum from the date of execution of pronote and receipt till the date of decree and also the future interest @ 6% per annum from the date of decree till the realization of decretal amount.

Still not satisfied, the appellant-defendant has filed the instant appeal submitting that following substantial questions of law arise in this appeal for consideration of this Court:-

- “a Whether the execution of alleged pronote and receipt is proved when no marginal witness of the said pronote and receipt has been examined?*
- b. Whether the alleged pronote and receipt is without consideration and is the result of fraud as the plaintiff/respondent failed to prove the passing of the consideration?*
- c. Whether both the Courts below have mis-read and mis-interpreted the evidence led by the appellant which raises the substantial question of law?”*

Learned counsel for the appellant has argued that identity of

PW-2 Bagicha Singh has not been proved. At one place, he has been

shown as Bagicha Singh son of Shingara Singh whereas at the other place, he was shown as Bagicha Singh son of Thana Singh. Thus, the identity of Bagicha Singh is doubted. Similarly, the signatures of the appellant-defendant varies in the pronote as well as in the receipt. He further submits that no other witness except PW-2 Bagicha Singh has been examined by the respondent-plaintiff. Therefore, the judgment and decrees passed by the Courts below are liable to be set aside.

I have heard learned counsel for the parties and perused the impugned judgments.

As far as the argument raised by learned counsel for the appellant regarding the identity of PW-2 Bagicha Singh son of Shingara Singh or Thana Singh is concerned, the same cannot be accepted for the reason that both the Courts below have recorded a concurrent finding of fact holding that PW-2 Bagicha Singh son of Thana Singh is the same person who stood as attesting witness of the pronote and receipt Ex.P1 and Ex.P2. Therefore, the Courts below have rightly rejected the said argument. So far as the argument raised on behalf of the appellant that there is difference in the signatures of Jagjit Singh in the pronote and receipt is concerned, the same cannot be accepted for the reason that despite having opportunity to lead evidence, no such effort has been made by the appellant-defendant to produce any such witness including handwriting expert. Therefore, the arguments as put forward by learned counsel for the appellant, cannot be accepted.

Therefore, no exceptions can be taken to the concurrent findings of facts recorded by the Courts below. Accordingly, no substantial questions of law arise in this appeal.

In view of the aforesaid, this Court finds no merit in this appeal.

Dismissed.

February 08, 2017
AK

(HARI PAL VERMA)
JUDGE

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