

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

RSA No. 333 of 2014 (O&M)
Date of decision : August 21, 2017

Tarsem Lal

..... Appellant

v.

Dr. Ashok Adlakha and others,

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. KS Rekhi, Advocate
for the appellant.

Mr. Munish Puri, Advocate
for the respondents.

Ajay Tewari, J (Oral)

This appeal has been filed against the concurrent judgments of the Courts below dismissing the suit of the plaintiff/appellant.

The claim of the appellant was that respondents No.1 and 3 had agreed to get admission for his son against the management quota seat in a Medical College at Bangalore and had demanded ₹ 10 lacs for the same. As per the appellant, he paid a sum of ₹ 5 lacs by way of demand draft and ₹ 2 lacs in cash on one occasion and ₹ 3 lacs in cash on another occasion but the son of the appellant was able to manage the admission on his own merit in some other college and consequently the help of respondents No.1 and 3 was not required. He thereafter requested the respondents to return the amount of ₹ 10 lacs and on refusal filed the present civil suit.

On the other hand, the case of the respondents was that the parties had been neighbours for a long time and since respondent No.2 (son of respondent No.1) had been staying at Bangalore, the appellant had transmitted an amount of ₹ 5 lacs to be handed over to his son and actually the entire amount was handed over to the son of the appellant.

Both the Courts below dismissed the suit because none apart from the appellant came forward to give testimony. Further, the appellant could not prove the cash payment of ₹ 2 lacs and 3 lacs. Both the Courts below noticed that actually admission of the son of the appellant had been cancelled and he had challenged that order by way of a civil writ petition before the Karnataka High Court but he had set up totally a different case regarding the role of the respondents in that writ petition. Consequently, both the Courts below believed the story set up by the respondents, and as mentioned above dismissed the suit.

Counsel for the appellant has argued that once respondent No.1 had admitted the receipt of ₹ 5 lacs it was incumbent upon him to have proved that the money was transmitted to his son. However, once it was the case of the respondents that the money was given to the son of the appellant by way of cash for his expenses at Bangalore it would be a situation where the Court had to evaluate the oral testimony of both the parties. Both the Courts below believed the respondents and disbelieved the appellant. Counsel for the appellant has not been able to persuade me that the findings recorded are either based on no evidence or are based on such misreading of evidence so as to render the same so perverse as to be liable for interference under Section 100 of the CPC. Consequently, this appeal is dismissed.

Since the main case has been decided, the pending C.Ms, if any, also stand disposed of.

August 21, 2017
'kk'

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No