

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

147

RSA No.1118 of 2017 (O & M)
Date of Decision:15.12.2017

Avtar Singh (deceased) through LRs

...Appellants

Versus

Bhupinder Singh (deceased) through LRs

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. D.P.S. Randhawa, Advocate
for the appellants.

ANIL KSHETARPAL, J.(Oral)

Defendants-appellants are in regular second appeal against the findings of fact arrived at by the learned First Appellate Court.

Plaintiff filed a suit for recovery of Rs.2,00,000/-, which was given as a friendly loan to Avtar Singh predecessor of the defendants/appellants. It was a case of the plaintiff that Avtar Singh was given Rs.2,00,000/- vide cheque No.1657583 dated 08.06.2010 drawn on account No.B-50 in Amritsar Central Co-operative Bank, Butala.

Avtar Singh got the aforesaid cheque encashed by signing on the back of the cheque. Branch Manager appeared in the witness-box and stated that the amount was withdrawn by Avtar Singh. However, he did not personally identify Avtar Singh. Keeping this evidence in view, learned First Appellate Court after discussing the evidence in detail, decreed the suit filed by the plaintiff.

Learned counsel for the appellants has submitted that since it was only a bearer cheque, therefore, there cannot be any presumption of loan. He has further submitted that since the Bank Manager was not able to

identify Avtar Singh, therefore, the payment is not proved.

I have considered the submission and with the able assistance of learned counsel gone through the judgments passed by both the Courts below.

As far as first argument of learned counsel is that it was a bearer cheque, it is suffice to notice that once Avtar Singh had withdrawn the amount in cash from the account of the plaintiff maintained in a bank, the payment of Rs.2,00,000/- to Sh. Avtatr Singh is proved. It is not necessary for filing a suit for recovery that the payment must go into the account of the defendant.

Second argument of learned counsel is that Bank Manager was not able to personally identify Avtar Singh. He is not supposed to know each and every customer, who comes to the Bank. Avtar Singh had signed the cheque at the time of withdrawal and this fact is not being disputed.

Taking into consideration the above facts, this Court does not find any good ground to interfere.

Hence, this regular second appeal is dismissed.

15.12.2017
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(ANIL KSHETARPAL)
JUDGE

Whether Speaking/Reasoned: Yes/No
Whether Reportable : Yes/No