

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

RSA No.3718 of 2017 (O&M)

Date of decision: 21.7.2017

Jagwinder Singh

... Appellant

vs.

Nachhattar Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.Gurcharan Singh, Advocate for the appellant

Rajiv Narain Raina, J.(From dais)

1. This appeal arises out of a suit for recovery of money. The claim is based on a pronote executed by the defendant/appellant. The two courts below have examined the pronote with keen eyes and matched the signatures of the defendant/appellant with his signatures appended on other documents and have reached the conclusion that the pronote is genuine and bears his signatures even though the defendant denied his signatures on the pronote in the written statement.
2. Learned Additional District Judge, Fatehgarh Sahib in her judgment pronounced on 8th February, 2017 has agreed with the trial court and opined that the execution of the pronote has been duly proved and once the execution has been proved, a statutory presumption arises in favour of the plaintiff under Section 118 (a) of the Negotiable Instruments Act, 1881 that a pronote once executed is presumed to have been supported by consideration. The defendant/appellant failed to show that there

was no passing of consideration at the time of execution of pronote and the accompanying receipt.

3. The Courts below have affirmed that the plaintiff proved advancing a sum of ₹ 90,000/- to the defendant/appellant by way of loan with the pronote as security for returning borrowings by payment of the loan amount. The defendant did not take the objection before the trial court that the plaintiff was a money lender and had no money lending licence, and therefore, could not have legally advanced loan at all. What was not pleaded as a fact before the trial court, the lower appellate court quite correctly thought, that no evidence could be adduced to prove a plea not taken before the trial court.

4. Hence, I have no reason to disturb the concurrent findings of fact recorded by both the courts below after appreciating the evidence on record and would not tinker with the judgments and decrees of the both the courts below when there exist no valid ground warranting interference on the second appeal side of this Court while reviewing an appellate decree when accompanied by firm findings returned in the judgment in appeal on the issues framed for answer.

5. Accordingly, this appeal is dismissed. As a result of dismissal of the appeal, the accompanying application for condonation of delay is also dismissed.

21.7.2017
MFK

(RAJIV NARAIN RAINA)
JUDGE

1. Whether speaking/non-speaking?
2. Whether reportable?

Yes
No