

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

114

RSA No.5933 of 2017 (O & M)
Date of Decision:16.12.2017

Karnail Singh (Since deceased) through LRs ...Appellant

Versus

Inderjit Jhanji (Since deceased) through LRs ...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Rahul Singh Birdi, Advocate
for the appellant.

ANIL KSHETARPAL, J.(Oral)

CM No.15580-C-2017

Prayer in this application is for condonation of delay of 102 days in filing the appeal.

For the reasons mentioned in the application, which is duly supported by an affidavit, delay of 102 days in filing the appeal is condoned.

Application is allowed.

CM No.15581-C-2017

Application under Order 41 Rule 27 of the Code of Civil Procedure has been filed for permission to produce the original record of DDR No.3, dated 07.10.2015 by way of additional evidence.

It is not disputed before me that similar application was filed before the learned First Appellate Court. The learned First Appellate Court after discussing the matter, dismissed the same.

In the considered opinion of this Court, no fresh application under Order 41 Rule 27 of the Code of Civil Procedure was maintainable.

The appellant is entitled to challenge the aforesaid order in this appeal.

Main Case

LRs of the defendant-appellant are in the regular second appeal against the concurrent findings of fact arrived at by the Courts below.

Plaintiff had filed a suit for recovery of Rs.8,10,000/- on account of pronote and receipt executed by the defendant late Shri Karnail Singh on 20.12.2007. On the other hand, defendant denied the fact that any amount was borrowed as a loan. He further denied execution of the pronote and receipt. He submitted that in fact, he used to sell his produce at Commission Agency of the plaintiff and he has been dragged into false litigation.

Both the Courts after appreciating the evidence available on the file, decreed the suit filed by the plaintiff. Both the Courts have concurrently found that the defendant-appellant failed to produce any evidence on the file to prove that the pronote and receipt were forged and fabricated as pleaded by him.

I have heard learned counsel for the appellant at length and with his able assistance gone through the documents filed in the paper-book. The alleged pronote and receipt has been produced at page 105. A bare look at the pronote and receipt would show that the defendant had signed the pronote at two places. He had signed the pronote at a place where revenue stamps have been affixed. The pronote is also attested by the marginal witnesses, once of whom Som Nath has been examined in the witness-box and has supported the case of the plaintiff.

Defendant-appellant has failed to produce any evidence to

show as to how his signatures appeared on the pronote and receipt. There is no explanation as to why the defendant had signed on the printed proforma of the pronote and receipt especially on revenue stamps. Although, the defendant-appellant had denied execution of such pronote and receipt, however, defendant-appellant failed to produce any evidence in this regard.

Learned counsel for the appellant has vehemently argued that the learned First Appellate Court has committed a serious error in declining the application for additional evidence. He has submitted that scribe of the pronote and receipt had produced on file a copy of the DDR No.3 to assert that the original register has been lost, wherein entry was made.

The learned First Appellate Court has considered this aspect and held that the evidence, which is sought to be led in additional evidence is not going to serve any purpose. The Court has noticed that the primary document on the file are pronote and receipt. Defendant-appellant is not wanting to produce any evidence to refute, the aforesaid pronote and receipt, which bears the signatures of the defendants.

Taking into consideration, the finding of fact arrived at by the Courts below, this Court does not find any good ground to interfere with the concurrent findings of fact arrived at by the Courts below.

No other argument was raised. All miscellaneous application shall stand disposed of .

16.12.2017
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(ANIL KSHETARPAL)
JUDGE

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