

HIGH COURT OF CHHATTISGARH, BILASPUR

(Arising out of judgment and decree dated 20-11-2002 delivered by
4th Additional District Judge, Raipur, in civil suit No.29-B/2001)

FA No. 33 of 2003

- Pranadhar Agarwal, S/o Atmanand Agarwal, aged 49 years, cultivator, R/o Arang Para, Arang, Tahsil & District Raipur (CG).

---- Appellant

Versus

- Jalaluddin, S/o Badruddin Gouri, R/o Vegetable Market, Arang, Tahsil & District Raipur (CG).

---- Respondent

For Appellant
For Respondent

Shri Anand Gupta, Advocate
Shri K.K. Dewangan, Advocate

Judgment on Board

By

Prashant Kumar Mishra, J.

13/07/2018

1. This is plaintiff's appeal challenging the trial Court's judgment and decree whereby as against the recovery suit for Rs.50,000/- together with interest the trial Court has allowed the suit only to the extent of Rs.7,000/- along with interest @ 15% per annum from 16-5-1996 till the date of filing of the suit and thereafter up to 9-4-1999 with further interest @ 6% per annum on Rs.10,040/- from the date of filing of suit till recovery.
2. Both the parties are resident of Arang, Tahsil & District Raipur. The plaintiff advanced loan of Rs.50,000/- on 16-5-1996 which

was not repaid by the defendant, therefore, the plaintiff served a legal notice to which the defendant replied that he has already paid Rs.40,000/- on different dates and additional amount of Rs.3,000/- as charges for hiring taxi by the plaintiff has been set off, therefore, he is only required to pay a sum of Rs.7,000/- only.

3. Plaintiff heavily relied on the document (Ex.P/1), which was an agreement at the time of advancing the amount of Rs.50,000/-. About this agreement, the defendant has stated that the plaintiff obtained his signature on blank stamp paper.
4. The trial Court observed that the document carries signature of one Dilip Kumar Gupta as witness, however, the said witness has not been examined by the plaintiff. Moreover, the stamp paper carries the name of Jalaluddin as seller but the name of purchaser is not mentioned. It appears the stamp paper was purchased for some agreement involving transaction about the purchase of land or any commodity, but not for a loan transaction.
5. Even if the above document is left out of consideration, the fact that while replying to the legal notice as well as in the written statement the defendant has admitted to have obtained loan of Rs.50,000/-, but at the same time the defendant has categorically stated that he has repaid an amount of Rs.23,000/- on 15-8-1996, Rs.7,000/- in December, 1996, Rs.5,000/- on 1-7-1997 and Rs.5,000/- on 27-12-1997, the same has rightly

believed by the trial Court. The trial Court has also observed that the plaintiff has admitted that he had hired the jeep belonging to the defendant on rent, but has not produced any evidence regarding payment of the vehicle rent of Rs.3,000/-, therefore, for all the cumulative evidence and reasons, the trial Court has found the defence version of the defendant to be more probable and believable on the principle of preponderance of probabilities and, thus, decreed the suit only to the extent of Rs.7,000/- together with interest @ 15% per annum till filing of the suit and thereafter @ 6% per annum.

6. I have heard learned counsel appearing for the parties at length and examined the record.
7. The pleading and evidence available on record does not reveal that the finding recorded by the trial Court is perverse or illogical. The said finding is borne out of the record and can be reached by any prudent person in the state of nature of transaction and for the fact that both the parties belong to the same place and had friendly relation.
8. For the foregoing, the trial Court has rightly allowed the suit only to the extent of Rs.7,000/- while dismissing the suit in respect of the rest part. Accordingly, the appeal, sans substance, is liable to be and is hereby dismissed.

Sd/-
Judge
Prashant Kumar Mishra

