

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**First Appeal No. 366 of 2016**

Krishna Kumar Pandey s/o Shri Mukund Pandey, Personal Number 896586 Through Manager Personnel Officer, Wire Rod Mill (Mechanical) Bhilai Steel Plant, Bhilai, District Durg (CG) R/o Zone-1, Khursipar, behind ITI Bhilai, Tahsil & District Durg (CG)

---- Appellant**Versus**

Smt. Sharda Devi w/o Shri Ramvriksha Ram, R/o Ward No.26, Camp-2, Bhilai, Tahsil & District Durg (CG)

---- Respondent

For Appellant : Shri Ali Asgar, Advocate

For Respondent : Shri C.S. Kaushik, Advocate

HON'BLE SHRI JUSTICE RAM PRASANNA SHARMA**Judgment on Board****25/06/2018**

1. This appeal is preferred under Section 96 of the Code of Civil Procedure, 1908 against the judgment and decree passed by the 7th Additional District Judge, Civil District Durg (CG) in Civil Suit No.5B/2011 dated 27.7.2016 wherein the said Court had decreed the suit in favour of the respondent for a sum of Rs.75,000/- against the present appellant.

2. Learned counsel for the appellant submits that the appellant is an employee of Bhilai Steel Plant and the respondent known to him since long back as they have cordial relations. As per the suit averment, on 27.6.2008, the appellant borrowed a sum of Rs.75,000/- from the respondent but he could not repay the same. The respondent

filed a suit against the appellant that he had borrowed a sum of Rs.75,000/- from her. On receiving the said amount, the appellant had also executed a promissory note. A legal notice was sent to the appellant, which was returned as not claimed.

3. It is contended on behalf of the appellant that the respondent is a money lender who failed to comply with the provisions of Money Lending Act, especially, Section 4 and 7 of the said Act and she has not maintained the accounts properly. Further case of the appellant is that sign of the appellant was obtained on the promissory note and 2-3 papers forcibly.

4. Learned counsel for the respondent submits that to substantiate the pleadings, the respondent- Sharda Devi herself has adduced evidence before the Court as AW1, Pawan Choudhary as AW3 and Santosh Kumar as AW2. The promissory note Ex. P/4 was proved by respondent AW1 and independent witness Pawan Choudhary AW3 in whose presence an amount of Rs.75,000/- was given to the appellant and thereafter, he signed the promissory note. When the amount was not returned, notices Ex. P1 to P3 were issued to the appellant, but he did not reply.

5. I have heard learned counsel for the parties and perused the record.

6. The appellant had adduced evidence of himself as DW1 and Dukhit Ram DW2, who deposed before the trial Court that the sign on the promissory note was obtained forcibly and for that they have also

made a report to the Police authority vide Ex. D/1, but after enquiry, it was found that the case is one of money transaction.

7. From the evidence, it is established that the appellant was usually engaged in money transactions with the respondent and borrowing money at different point of time.

8. From overall assessment of the entire evidence, the trial Court came to the conclusion that the appellant had borrowed a sum of Rs.75,000/- from the respondent and therefore, he is liable to repay the same. The trial Court did not award any interest on the said amount for the reason that Register is not maintained as per law under the provisions of Money Lending Act. As borrowing of money is proved and the same is not rebutted by the appellant, the finding of the trial Court is based on proper marshalling of evidence and the same is not liable to be disturbed.

9. The appeal has no force and the same is dismissed at the motion stage itself.

10. The decree be drawn up as under:

(1) The appeal is dismissed with cost.

(2) Parties shall bear their own cost.

(3) Pleaders' fee, if certified be calculated as per certificate or as per Schedule whichever is less.

Sd/

**(Ram Prasanna Sharma)
JUDGE**

