

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

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**CM-9414-C-2011 in/and
RSA-3375-2011 (O&M)
Date of Decision : 28.08.2018**

Gurtej Singh

..... Appellant

Versus

Sucha Singh

..... Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Munish Gupta, Advocate
for the applicant-appellant.

Mr. Vivek Aggarwal, Advocate
for the respondent.

AJAY TEWARI, J. (ORAL)

CM-9414-C-2011

For the reasons recorded, the application is allowed.

Deficiency of court fee is made good.

RSA-3375-2011 (O&M)

This appeal has been filed against the concurrent judgments of the courts below decreeing a suit for recovery filed by the respondent.

The case of the respondent was that the appellant had obtained a loan of Rs.3,15,000/- from him and had executed a pronote and receipt in evidence thereof on 01.12.2002. The case of the appellant was that in fact the appellant had obtained a loan of Rs.1,00,000/- from the respondent on 03.06.2001 at the rate of interest of 1.50% p.m. He paid that amount but on 01.02.2002 he needed more money and he obtained another loan of Rs.1,50,000/-. However, at that time the respondent had got signed the instant pronote from him. Thereafter on

27.11.2004 he returned the total amount of Rs.2,50,000/- but had not obtained any receipt thereof. Thus, the suit was not maintainable. In the replication, the respondent denied that paragraph of the written statement and reiterated the corresponding paragraph of the plaint. Both the courts below having decreed the suit, the present appeal has been filed.

Counsel for the appellant has argued that the story which was set out by him in paragraph No.2 of his written statement was vindicated when the son of the respondent admitted to having received Rs.2,50,000/- from him in November, 2004.

On the other hand, counsel for the respondent has argued that the transaction of 03.06.2001 was a transaction between the son of the respondent and the appellant and if the son of the respondent had admitted receiving some money from him, it would have no effect on the transaction between the appellant and the respondent. He has shown for my perusal Ex.P-1, the pronote signed by the appellant, and has pointed out that on pronote the appellant had written in his own handwriting that he had received a sum of Rs.3,15,000/-. Further there is no reason forthcoming why the appellant did not retrieve the original pronote or obtained a receipt from the respondent if he had cleared the total accounts.

In the totality of circumstances, I am not persuaded that the findings recorded by the courts below are either based on no evidence or based on such a perverse misreading of evidence so as to justify the interference of this Court in second appeal.

Appeal is dismissed. No costs.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

August 28, 2018
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(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No
Whether reportable - Yes/No