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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision : 26.03.2018

1.

RSA-2644-2013 (O&M)

Nirbhai Singh

... Appellant(s)

Versus

M/s Shadi Ram Piare Lal

... Respondent(s)

2.

RSA-2672-2013 (O&M)

Nirbhai Singh

... Appellant(s)

Versus

M/s Shadi Ram Piare Lal

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Sapan Dhir, Advocate
for the appellant(s).

Mr. S.K. Jain, Advocate for
Mr. Aasheem Jain, Advocate
for the respondent(s).

AMIT RAWAL, J. (ORAL)

This order of mine shall dispose of two appeals bearing **RSA No.2644 of 2013** titled as **“Nirbhai Singh V/s M/s Shadi Ram Piare Lal”** and **RSA No.2672 of 2013** titled as **“Nirbhai Singh V/s M/s Shadi Ram Piare Lal”**.

Learned counsel for the respondent(s) submits that the respondent-plaintiff instituted the suit for recovery of an amount of

₹86,000/- i.e. ₹50,000/- principal amount + ₹36,000/- as interest w.e.f. 01.01.2003 to 31.12.2005 @ 24% per annum. The aforementioned suit was decreed by the trial Court vide judgment and decree dated 06.01.2011 by decreeing the amount of ₹50,000/- along with interest @ 6% per annum and the counter-claim of the defendant was dismissed. The appeal preferred before the lower Appellate Court was also met with the same fate. The appellant-defendant has preferred the above mentioned RSAs and there was no stay in this Court. In pursuance to the filing of the execution petition, for execution of the judgment and decree, aforementioned, the execution application bearing No.143 dated 12.05.2012 stands satisfied, as the appellant-defendant has made the payment and the attached property of the JD has been ordered to be released. The trial Court passed the following order on 06.12.2014:-

“M/s Shadi Ram Vs. Nirbhai Singh

Present: Sh. N.K. Puri Advocate for DH.

Sh. M.P. Goyal Advocate for JD.

The counsel for DH made a statement that present execution has been satisfied. In view of his statement, the execution application is dismissed as fully satisfied. Attached property of JD, if any, is ordered to be released. Necessary intimation be sent to the quarter concerned immediately. The file be consigned to record room.”

Mr. Sapan Dhir, learned counsel for the appellant-defendant has not controverted the aforementioned fact, but submits that the amount had been taken under protest.

Keeping in view the aforementioned facts and circumstances of the case, particularly the fact that there is no such order regarding

acceptance of the money/payment under protest, no cause of action survives in the matter and the present regular second appeals have been rendered infructuous, accordingly, both the regular second appeals are disposed of.

26.03.2018
Yogesh Sharma

(AMIT RAWAL)
JUDGE

✓

Whether speaking/reasoned Yes/ No

✓

Whether Reportable Yes/ No