

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA-2238-2016(O&M)

Date of Order:27.11.2018

M/S DEVI DAYAL AND ANR.

..Appellants

Versus

KARPAL SINGH

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vikas Mohan Gupta, Advocate,
for the appellants.

Mr. Vikas Singh, Advocate,
for the respondent.

ANIL KSHETARPAL, J (Oral)

Plaintiffs-appellants are in the regular second appeal against the concurrent findings of fact arrived at by both the courts below, dismissing their suit for recovery of Rs.13,50,000/- on the basis of books of accounts.

Defendant contested the suit and denied the fact that he was liable to pay any amount or he had dealing with the plaintiff-firm.

Both the courts on appreciation of the evidence have found that the books of accounts produced by the plaintiffs were not in regular course of business and the author of the books of accounts has not been produced.

Plaintiffs examined Ashok Kumar as the person who was author of the books of accounts. However, on reading of the statement of Ashok Kumar, it is apparent that he nowhere states that books of accounts were written by him. Still further in the books of accounts, the accountant who had drawn salary was Vinod Kumar but he has not been examined.

Still further books of accounts prior to 26.11.2005 have not been produced.

First entry of 26.11.2005 is showing lending of Rs.5,00,000/- in cash to the defendant. No reason has come on record as to why the books of accounts before November, 2005 have not been produced.

Learned counsel for the appellants submitted that once the defendant has admitted correctness of some of the entries and has also admitted issuance of J-Form by the plaintiff's firm, therefore, the defendant has not come to the court with clean hands and hence the suit filed by the plaintiffs was liable to be decreed.

It is well settled that the plaintiffs have to stand on their own legs. Section 34 of the Indian Evidence Act provide for the manner in which suit is to be filed on the basis of books of accounts. The books of accounts have to be regularly maintained and proved which in the considered opinion of this court has not been proved.

Still further, the mere production of the books of accounts is not sufficient. Apart therefrom, defendant has denied his signatures on most of the entries and has also examined a Fingerprint and Handwriting Expert to support. However, plaintiffs-appellants have failed to produce any cogent evidence to prove their case.

In view thereof, this court does not find any good ground to interfere with the concurrent findings of fact arrived at by the courts below.

The regular second appeal is dismissed.

November 27, 2018

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Whether speaking/reasoned

Whether reportable

(ANIL KSHETARPAL)

JUDGE

: Yes/No

: Yes/No