

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

RSA No.3255 of 2016 (O&M)

Date of decision:08.05.2018

Jaspal Singh

... Appellant

Vs.

M/s Sewa Singh Dalbir Singh Commission Agents, Malout

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr.Ajay Pal Singh, Advocate, for
Mr. A.S.Sivia, Advocate
for the appellant.

AMIT RAWAL J. (Oral)

The appellant-defendant in Regular Second Appeal against the concurrent findings of facts and law, whereby, suit for recovery of ₹4,29,800/- alongwith interest @6% per annum from 1.4.2011 till actual realization, has been decreed by the trial Court and affirmed by the Lower Appellate Court.

The respondent-plaintiff instituted the suit on the premise that defendant had been dealing with plaintiff firm and selling the crop at the shop of plaintiff firm and in lieu thereof, borrow the amount in advance by way of loan to meet his need. The plaintiff firm had been maintaining the regular running account in his account book in the name of defendant.

The defence of the appellant-defendant in the aforementioned suit was that he was having dealing with the plaintiff was not in dispute.

The maintaining of account books was emphatically denied. It was stated that signatures of defendant were obtained on blank bahies and converted into writings.

The plaintiff in support of evidence examined as many as two witnesses and brought on record the documentary evidence. On the other hand, defendant examined DW1 and brought on record the documentary evidence Ex.D1 to Ex.D36.

Learned counsel for the appellant-defendant submits that judgments and decrees of the Courts below suffer from illegality and perversity, for, principal amount of Rs.4,29,800/- also contained element of interest @ 8.5% which could not be part of principal amount as it is not permissible in the eyes of law. The account books were forged and fabricated and were not properly maintained by the plaintiff firm. The plaintiff miserably failed to prove on record the same and thus, urges this Court for setting aside the findings under challenge.

I have heard the learned counsel for the appellant-defendant, appraised the judgments and decrees of the Courts below and of the view that there is no illegality and perversity, for, respondent-plaintiff had examined accountant. PW1- Satnam Singh, who proved khatta year 2004-05 to 2010-11, Ex.P1 to Ex.P13 , entries of rokar Ex.P36 to Ex.333 proved that the last settlement was done on 01.04.2011, whereas, the suit was filed on 28.09.2012. Rokar entries bore the signature of defendant which was proved through the testimony of attesting witness. Nothing prevented the appellant to take the assistance of the expert to belie signature. Having failed

to do so, the Court below had rightly decreed the suit.

As regards charging of interest at higher rate, I am of the view that interest at the rate given is permissible being commercial transaction.

The arguments of Ajay Pal Singh, have not been able to bring the case within the realm of illegality and perversity enabling this Court to form the different opinion than the one arrived at by the Courts below which are based upon the appreciation of oral and documentary evidence.

No other argument has been raised.

Accordingly, the appeal stands dismissed.

(AMIT RAWAL)
JUDGE

May 08, 2018
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No