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

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**CM-9304-05-C-2016 in/and
RSA No.3550 of 2016 (O&M)
Date of Decision : 17.09.2018**

Ranjodh Singh ...... Appellant

Versus

M/s Bhag Ram Hans Raj Commission Agents and others ...... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

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Present : Mr. J.S. Bhandohal, Advocate
for applicant-appellant.

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AJAY TEWARI, J. (ORAL)

CM-9304-05-C-2016

For the reasons recorded, the applications are allowed. Deficiency in court fee is made good. Delay of 23 days in refiling the appeal is condoned.

RSA-3550-2016 (O&M)

This appeal has been filed against the concurrent judgments of the courts below decreeing a suit filed by the respondents for recovering an amount of Rs.7 lakhs odd alongwith interest.

The suit was filed on the basis of Rokar Bahi (Cash Book) which the respondents had themselves come forward to prove. The case of the appellant on the other hand was that actually earlier he was selling his entire crop to the respondents but w.e.f. the Rabi 2005, he stopped selling the crops through the respondents and that is why the respondents used the thumb impressions which they obtained in good faith from the appellant and filed the instant suit. It was also argued by the counsel for the appellant

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before the courts below that the respondents had not produced their income tax returns. It was further argued by the appellant that it was a strange case where after selling the crop in the month of April, 2005, in that very month (rather within one week) the appellant was shown to take a huge loan of Rs.7 lakhs odd and this was done only because the respondent No.1 wanted to teach the lesson to the appellant for selling his crops through some other person.

Both the courts below have considered these arguments. The lower appellate court held that once it was the case of the respondents that it was the income tax assessee and it was also stated that all its account books had been shown to the income tax department, it was open to the appellant to summon the income tax record but the appellant did not do so. The courts below further held that they went through then account books and were convinced - on the anvil of preponderance of probability – that the account books were more believable than the bald statement of the appellant.

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

(AJAY TEWARI)
JUDGE

September 17, 2018
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Whether speaking/reasoned - Yes/No
Whether reportable - Yes/No