

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

**RSA No.3607 of 2016 (O&M)
Date of Decision.16.11.2018**

Sohan LalPetitioner
Vs
Bhajan Singh Mistri and others ...Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. P.S. Khurana, Advocate
for the petitioner.

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AMIT RAWAL J. (ORAL)

The appellant-defendant No.2 is aggrieved of the concurrent finding of fact whereby the suit for recovery of ₹6,41,300/- was decreed to the extent of ₹5,30,000/- along with interest @12% per annum from the date of execution of receipt till date of judgment and further @6% per annum on principal amount i.e. ₹5,30,000/- from the date of judgment till realization of the entire decretal amount. In appeal filed by the defendants, the lower Appellate Court partly allowed the appeal and modified the judgment and decree of the trial Court to recovery of ₹3,91,250/- from the defendants along with interest @12% per annum from the date of issuance of receipt till the date of judgment and further @6% per annum on the amount of ₹3,91,250/- from the date of judgment till realization of the decretal amount.

Mr. P.S. Khurana, learned counsel appearing on behalf of appellant-defendant No.2 submitted that no doubt signature of the defendants on Ex.P1 and P2 could not be controverted through the testimony of any independent handwriting expert but on bare look of Ex.P1, it does not show that defendants had owed money to plaintiff.

This fact has not been taken into consideration, thus, there is illegality and perversity. Plaintiff had not come to court with clean hands without adverting to the entry in the back page of Ex.P2, therefore, the lower Appellate Court erroneously decreed the suit for ₹3,91,250/- along with interest aforementioned.

I am afraid aforementioned argument of Mr. Khurana is not sustainable, for, no cogent evidence has been brought on record to establish that the defendant had not undertaken to pay money to the plaintiff or any attenuating circumstance proved on record as to how signature appended on Ex.P1 and P2, particularly, when they are on the letter head of firm M/s Mehar Chand Sohan Lal Commission Agents. All these factors weighed in the mind of the Courts below.

I do not find any illegality and perversity in the judgment and decree rendered by the lower Appellate Court, much less, no substantial question of law arises for determination by this Court. No ground for interference is made out. Resultantly, the second appeal is dismissed. The application for condonation of delay of 551 days in re-filing of the appeal is also dismissed as the same lacks bona fide explanation.

(AMIT RAWAL)
JUDGE

November 16, 2018
Pankaj*

Whether Reasoned/Speaking Yes

Whether Reportable No