

RSA-3725-2016 (O&M)

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

RSA-3725-2016 (O&M)

Date of decision : 19.12.2018

Gurdial Dass (D) through LRs

... Appellant

Versus

N.K. Garg and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Divanshu Jain, Advocate
for the appellant.

AMIT RAWAL, J.

The present regular second appeal is directed at the instance of the plaintiff-Gurdial Dass, who sought the recovery of ₹13,44,000/- (₹11,00,000/- plus interest amounting to ₹2,44,000/-). The trial Court, vide judgment and decree dated 05.03.2012, confined the decree to two cheques (Ex.PW3/C and Ex.PW3/D), amounting to ₹ 1 Lac each and awarded the interest @ 6% per annum. The lower Appellate Court partly allowed the appeal by modifying the decree of the trial Court by ordering the recovery of another cheque (Ex.PW3/E).

Learned counsel for the appellant-plaintiff submitted that relief qua the other four cheques (PW2/A, PW2/B, PW2/C and PW3/B) issued by Rama Aggarwal, amounting to ₹3,50,000/-, has erroneously been denied as the defendants admitted that Gurdial Dass and Rama Aggarwal, being husband and wife, had joint account. Non-impleading of Rama Aggarwal,

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in the suit cannot be fatal.

He further submits that the lower Appellate Court has not awarded interest viz-a-viz the cheque (PW3/E).

I am afraid the aforementioned argument is not sustainable as no documentary evidence has come on record to establish the jointness of the account. Admission of the defendants would not tantamount to discharging the onus of the plaintiff.

As regards the plea of interest viz-a-viz third cheque, the appellant-plaintiff would be at liberty to seek clarification in accordance with law.

In this view of the matter, there cannot be any illegality or perversity in the judgments and decrees of the Courts below, much less, no substantial question of law arises for determination.

Resultantly, the regular second appeal is dismissed.

19.12.2018
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**