

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

RSA No.4175 of 2016 (O&M)
Date of Decision: July 13, 2018

Davinder Singh	Versus	---Appellant
Baldev Singh		---Respondent

Coram: Hon'ble Mr. Justice Harinder Singh Sidhu

Present:- Mr. Amandeep Singh Rai, Advocate
for the appellant.

HARINDER SINGH SIDHU, J.

The plaintiff has filed this regular second appeal against the judgments of the Courts below, whereby, his suit for recovery of Rs.1,09,915/- besides future interest and costs has been dismissed.

The case of the plaintiff was that the defendant-Baldev Singh had borrowed a sum of Rs.49,500/- from the plaintiff on interest at the rate of 2% per annum on 21.03.2006 in the presence of the witnesses namely Jarnail Singh son of Chanan Singh and Karamjit Singh son of Mall Singh. The defendant executed a pronote and receipt in favour of the plaintiff and signed the same in Punjabi in the presence of the witnesses. Similarly, the defendant further borrowed a sum of Rs.37,000/- from the plaintiff on interest at the rate of 2% per annum on 14.05.2006 in the presence of the witnesses namely Baljinder Singh son of Bhupinder Singh and Karamjit Singh son of Mall Singh. The defendant also executed a pronote and receipt in token on the same.

The defendant, on the other hand, pleaded that the alleged pronote and receipt were forged and fabricated and had been prepared in connivance with the attesting witnesses.

To prove his case, the plaintiff examined Karamjit Singh as PW-1, and he himself appeared as PW-2. On the other hand, defendant examined Ajit Pal Sharma as DW-1 and he himself appeared as DW-2.

The Trial Court held that the execution of the pronote and the receipt was not proved. It was also noted that PW-1 Karamjit Singh, one of the attesting witnesses, during the cross-examination, admitted that he had just signed as a witness and giving and taking of money was not done in his presence. He also stated that no other person was present when he reached to sign as a witness. The second attesting witness Barjinder Singh, who was the brother of the plaintiff, was not examined. Learned Trial Court further noted that DW-1 Ajit Pal Sharma, Clerk to Sh. Sat Parkash, Advocate, has proved his signature on a legal notice Ex. D1 dated 2.3.2006, which was sent by Jasvir Kaur, wife of the plaintiff to the defendant. Through the legal notice, the defendant was called upon to return the amount of Rs.30,000/- alongwith interest to Jasvir Kaur, which he had taken as loan on 23.3.2003 after executing the pronote and receipt dated 23.03.2003 in favour of Jasvir Kaur. The pronote and receipt which are the subject matter of the suit are subsequent to the earlier loan taken from the wife of the plaintiff.

After appreciating the entire evidence on record, the trial court held that the plaintiff has totally failed to prove his case and dismissed the suit.

Learned first Appellate Authority while dismissing the appeal filed by the plaintiff held that it is quite improbable that when the earlier loan amount was not returned by the defendant to the wife of the plaintiff and notice regarding the same Ex.D1 had been issued to the defendant,

even thereafter the plaintiff advanced a loan to the defendant vide documents Ex.P1 to P4,. it held that this fact raises a strong doubt with regard to the genuineness of these documents. Moreover, no handwriting and fingerprint expert had been examined to prove that the pronote and receipt Ex.P1 to Ex. P4 had infact been signed by the defendant. It was held that the application moved by the plaintiff for examining Handwriting and Finger Print Expert in the rebuttal evidence was rightly dismissed by the learned trial Court.

Findings of fact have been recorded by the Courts below.

Learned counsel for the appellant has not been able to establish as to how the findings of fact recorded by the Courts below are perverse or against the record.

No question of law arises for decision in this appeal.

Dismissed.

July 13, 2018
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(HARINDER SINGH SIDHU)
JUDGE

Whether Speaking / Reasoned
Whether Reportable

Yes/No
Yes / No