

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

RSA No.5101 of 2016 (O&M)

Date of decision : 11.05.2018

Dilbag Singh

...Appellant

Versus

Milkh Raj and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

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

ANIL KSHETARPAL, J. (ORAL)

Defendant No.1-appellant is in the Regular Second Appeal against the concurrent findings of fact arrived at by both the Courts below while decreeing the suit for recovery of the amount on the basis of the pronote and receipt executed by late Sh. Jagdish Singh-predecessor-in-interest of the defendants.

The defendants contested the suit on the ground that Jagdish had settled the account with the plaintiff and thereafter no amount was due and payable.

On appreciation of the evidence, both the Courts have recorded a finding of fact that the execution of the pronote and receipt is proved on file and is in fact admitted and, therefore, the suit has been decreed.

Learned counsel for the appellant has submitted that the pronote and receipt were not admissible in evidence as these documents

were not properly stamped. He submitted that on the day, these documents were produced in evidence, the defendants were proceeded ex parte and, therefore, the objection could not be taken at an appropriate time. However, when the learned counsel was asked to clarify, he admitted that later on ex parte proceedings were set aside and the proceedings started de novo from the stage when the defendants became ex parte. He could not point out any objection taken by the defendants-appellants with regard to the admission of the document.

Section 36 of the Indian Stamp Act 1899 specifically bars the party to question of admission of an instrument at a subsequent stage. Learned counsel for the appellant could not also point out that this objection was taken before the First Appellate Court.

In view thereof, there is no ground to interfere with the concurrent findings of fact arrived at by both the Courts below.

Regular Second Appeal is dismissed.

11.05.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No