

RSA No. 5318 of 2016

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

**RSA No. 5318 of 2016
Date of decision: 18.5.2018**

Jagtar Singh

... Appellant

Versus

Jaswinder Kaur and others

... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Harinder Pal Singh Ishar, Advocate
for the appellant.

ARUN PALLI, J. (Oral)

The suit filed by the appellant-plaintiff was dismissed by the trial court, vide judgment and decree dated 17.1.2015. As even the appeal preferred against the said decree failed, and was dismissed on 22.3.2016, he is in Regular Second Appeal before this Court. Parties to the lis, hereinafter, shall be referred to by their original positions in the suit.

Plaintiff-Jagtar Singh filed a suit for recovery of Rs. 89,600/-, along with interest. In brief, the case set out by the plaintiff was that Nachhattar Singh-predecessor-in-interest of the defendants borrowed a sum of Rs.70,000/- from the plaintiff on 23.12.2010, and agreed to pay interest @ 1% per month, regarding which a pronote and a receipt was executed. The pronote as also the receipt were alleged to have been scribed by the plaintiff himself, upon instructions from Nachhattar Singh. And the receipt was

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attested by two witnesses, namely Bhupinder Singh and Baljit Singh. Nachhattar Singh affixed his signatures on the pronote as also the receipt. But, as Nachhattar Singh had passed away, the defendants, being his heirs and having inherited his estate, could be proceeded against to recover the alleged amount.

In defence, it was pleaded on behalf of the defendants that late Nachhattar Singh never borrowed any amount from the plaintiff, nor executed any pronote or receipt in his favour. Nachhattar Singh never signed/thumb marked the said documents. Rather, post death of Nachhattar Singh, the plaintiff forged the alleged documents, in connivance with his witnesses.

On a consideration of the matter in issue and the evidence on record, both the courts concurrently concluded that nothing was brought on record to show, as to for what purpose late Nachhattar Singh obtained loan from the plaintiff. Particularly, for plaintiff-Jagtar Singh (PW1) conceded in his cross-examination that Nachhattar Singh owned a piece of land, as also a shop, which he would lease out, and earn handsome money. Further, Jagtar Singh (PW1), deposed that the witnesses not only appended their signatures on the pronote and receipt, but also mentioned the date when these documents were executed. However, an analysis of the receipt dated 23.12.2010 (Ex.P2), showed the signatures of Baljit Singh (PW2), but the date he wrote on the document was 23.12.2011, whereas the documents were executed on 23.12.2010. Thus, a suspicion was created, if Baljit Singh was even present at the time of alleged execution of the pronote. The specific case set out by the defendants was that the alleged pronote and receipt did not bear the signatures of late Nachhattar Singh, therefore, the plaintiff ought

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to have examined an expert to prove his signatures. Further, the plaintiff never filed any suit to recover the amount in question against Nachhattar Singh, while he was alive and that rather caused a suspicion, if the pronote in question was fabricated, post his death. The other attesting witness of the pronote (Ex.P1) and the receipt (Ex.P2), namely Bhupinder Singh, was never examined who could depose if Nachhattar Singh actually borrowed money from the plaintiff. Sukhdeep Singh, son of Nachhattar Singh, appeared as his own witness (DW1), and fully substantiated the case set out in the written statement by the defendants. Significantly, he was never cross-examined by the plaintiff, and therefore, his statement remained unrebutted/unchallenged. Further, nothing was brought on record to show that the defendants inherited the estate of late Nachhattar Singh, so as to justify the recovery of the alleged amount from them. On being pointedly asked, learned counsel for the appellant could not refer to anything on record to show if the findings recorded by both the courts were either contrary to the record or suffered from any material illegality.

No question of law, much less any substantial question of law, arises for consideration. The appeal being devoid of merit, is accordingly dismissed.

18.5.2018
AK Sharma

(ARUN PALLI)
JUDGE

Whether speaking / reasoned: YES
Whether Reportable: