

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

**RSA No.5338 of 2016 (O&M)
Date of decision:13.11.2018**

Sukhbir Singh

... Appellant

Vs.

Ranjit Kaur

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Naveen Batra, Advocate
for the appellant.

AMIT RAWAL J. (Oral)

The appellant-defendant has not been successful in defending the suit for recovery of ₹77,000/- decreed by the trial Court and affirmed by the Lower Appellate Court.

The plaintiff claimed the aforementioned amount on the premise that being a holder of credit card, defendant used the same for an amount of ₹77,000/- for personal use but the same was not repaid and in this regard, a writing dated 08.06.2009 for repayment was executed by the defendant. Despite a legal notice dated 09.12.2009, the amount was not paid resulting into filing of the suit.

The defendant denied the use of credit card, signatures and undertaking. On preponderance of the evidence, the trial Court decreed the suit and the Lower Appellate Court affirmed the findings as noticed above.

Learned counsel appearing on behalf of the appellant-defendant submitted that plaintiff failed to discharge the onus as to how the credit card

was used as no bank statements had been produced on record. Even no expert in this regard has been examined, particularly awhen the signatures were denied. The attesting witness did not come forward for cross-examination, therefore, adverse inference was liable to be drawn against the plaintiff.

I am afraid the aforementioned argument is not sustainable, for, once the plaintiff had brought on record writing dated 08.06.2009 as Ex.P1/B and the defendant admitted the claim, the onus was upon the defendant to prove that the writing did not bear the signatures which could have been rebutted in rebuttal.

It is a matter of record that marginal witness-Vikram Minhas had been examined regarding the writing dated 08.06.2009, despite extensive cross-examination, nothing contrary surfaced.

In view of what has been observed above, I do not find any illegality and perversity in the findings rendered by both the Courts below which are based upon the appreciation of oral and documentary evidence, much less no substantial question of law arises for adjudication of the present appeal.

No other argument has been raised.

The appeal is dismissed.

(AMIT RAWAL)
JUDGE

November 13, 2018

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Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No