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

**RSA No.997 of 2016 (O&M)**
**Date of Decision: 09.08.2018**

Narinder Singh

... Appellant

Versus

Prithvi Raj

... Respondent

**CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA**

Present:- Mr. Kuldeep Sanwal, Advocate,
for the appellant.

**TEJINDER SINGH DHINDSA, J.**

Defedant Narinder Singh is in second appeal before this Court.

Briefly noticed, plaintiff Prithvi Raj filed a suit seeking a decree for recovery of Rs.8,50,000/-i.e. Rs.5 lakh towards the principal amount and Rs.3, 50,000/- as interest component @ 2% per mensem from 20.04.2006 to 20.03.2009.

Suit was decreed by the trial Court on 25.03.2014 towards recovery of Rs.5 lakh with simple interest @ 12% per annum from the date of pronote and receipt dated 20.04.2006 till actual realization of the decretal amount. A civil appeal having been preferred by the defendant, vide judgment dated 18.08.2015 passed by the learned District Judge, Ferozepur, the judgment of the trial Court has been affirmed subject to modification as regards the interest component. The Lower Appellate Court has held the plaintiff/respondent entitled to interest @ 12 % per annum from the date of execution of the promissory note and receipt till institution of the suit and pendente lite and future interest @ 6% per annum from the date of institution of the suit till realization of the decretal amount.

Having heard counsel for the appellant at length, this Court is of the considered view that there is no merit in the instant appeal and the same deserves to be dismissed.

Case set up on behalf of the plaintiff/respondent was that the defendant/appellant had received an amount of Rs.5 lakhs on 20.04.2006 towards a loan and had duly executed promissory note and receipt in favour of the plaintiff on the same day i.e. 20.04.2006 in the presence of a marginal witness. The defendant/appellant had agreed to repay loan amount along with interest @ 2% per mensem. Present appellant had set up a case of denial as regards taking of loan. In the written statement, a stand was taken that the defendant used to sell his crops at the commission agency of one Mr. Guggan and who was having very strong political links. Defendant had dealt with the commission agency of Mr. Guggan for a period of 5-6 years but since dealings were not fair, defendant stopped visiting the commission agency. Prior to stoppage of dealings with Mr. Guggan, defendant had settled the entire account and during the period of transactions conducted with Mr. Guggan and his family members, signatures of the defendant on various blank pronotes, receipts, stamp papers and plain papers had been obtained. It was contended that Prithvi Raj Plaintiff/respondent herein had got fabricated the pronote and receipt in question in connivance with Mr. Guggan.

It is a case where the present appellant has not denied his signatures on the pronote as also receipt Ex.P-1 and Ex.P-2 respectively.

The presumption under Section 118 of the Negotiable Instruments Act regarding due execution of such documents would be in favour of plaintiff/respondent unless the same are rebutted by way of cogent and credible evidence. Even though a plea of fraud had been set up by the present appellant as regards signatures having been taken on blank notes and receipts etc. by Mr. Guggan and plaintiff/respondent having filed the suit at the instance of Mr. Guggan but no cogent evidence has been led to substantiate such plea of fraud. Courts below have noticed that the appellant had produced Kaccha receipts Ex.D-1 to D-6 but such receipts do not contain any detail as to who had issued the same. Ex.D-3 and Ex.D-5 related to S.S.Traders Commission Agents, Ferozepur who did not establish any communication with Mr. Guggan. Even such receipts were in the name of Amrik Singh and not in the name of the defendant (present appellant).

Counsel on a specific query having been put concedes that even though it was the case of the appellant that he had snapped his ties and had stopped dealing with Mr. Guggan 5-6 years prior to institution of the suit and had alleged that blank pronotes/receipts were obtained by Mr. Guggan and the same had been put to misuse, yet no complaint had been lodged before the police authorities against Mr. Guggan.

The plaintiff/respondent had duly proved on record the pronote as also receipt Ex.P-1 and Ex.P-2. Marginal witness to the documents had duly appeared and corroborated the case of the plaintiff.

Counsel raised a submission as regards the plaintiff/respondent not having financial capacity to advance loan of Rs.5 lakhs in the year 2006. Such submission is without merit. Execution of the promissory note and receipt having been duly proved in accordance with law, there would be a presumption of passing of consideration. In such eventuality plaintiff/respondent was not required to prove his capacity to advance the loan at the time of execution of the promissory note and receipt.

Even as regards interest component, plaintiff/respondent had sought recovery of Rs.3,50,000/- towards interest @ 2% per mensem from 20.04.2006 to 20.03.2009. The Lower Appellate Court has rightfully noticed that as per contents of the promissory note, the loan had been advanced for domestic purpose and since liability of the present appellant had not arisen out of a commercial transaction, future interest cannot exceed 6% per annum as per Section 34 CPC. Accordingly, plaintiff/respondent has been held entitled to interest @12 % per annum from the date of execution of the promissory note and receipt till institution of the suit and pendent lite and future interest @6% per annum from the date of institution of the suit till realization of the decretal amount.

In view of the discussion above, no infirmity or perversity is found in the judgment dated 18.08.2015 passed by the Lower Appellate Court.

No merit.

Appeal is dismissed.

**09.08.2018** **(TEJINDER SINGH DHINDSA)**
vandana **JUDGE**

Whether speaking/reasoned Yes
Whether Reportable No