

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

**RSA No.1289 of 2017 (O&M)
Date of decision: 30.11.2018**

Naresh Pal

...Appellant

Vs.

M/s S.B. Traders

...Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Sherry K. Singla, Advocate
for the appellant.

AMIT RAWAL, J.(ORAL)

The appellant-defendant has not been successful in defending the suit for recovery of ₹3,99,210/- along with interest @ 10.5% per annum. The suit aforementioned was filed on the basis of booklet/*Bahi* entries whereby the defendant had borrowed the money. The stand taken in the written statement is that the appellant had never taken any advance money as the entries were in the name of Naresh Kumar but he is actually Naresh Pal. Entries of 12.05.2005 and 15.11.2005 regarding amount of ₹ 38,700/- and ₹ 34,500/- respectively were admitted by the defendant. The Courts below did not agree with the aforementioned stand and by going through the books of account the lower appellate Court has already dismissed the said plea.

Mr. Sherry K. Singla, on behalf of the appellant has drawn the attention of this Court that plaintiff in his own cross examination admitted the factum of the signatures of Naresh Kumar and not Naresh Pal. In such circumstances, the onus as per the provisions

of Section 101 of Indian Evidence Act, has not been discharged, thus, in such circumstances, the Courts below have erred in decreeing the suit of the plaintiff-respondent..

I have heard counsel for the appellant and have gone through the suit of the plaintiff-respondent. On the plaint, written statement as well as Vakalatnama though the appellant has signed as Naresh Pal but in various other applications, for inspection and other documents, signed as Naresh. By taking that the appellant is known by both names i.e. Naresh Kumar as well as Naresh Pal and the Bahi entries proved on Court file as Exhibit P-4 to P-18, the findings of Courts below that the appellant borrowed amounts from time to time in advance from the plaintiff and signed the Bahi entries thus can not be faulted with.

In view of above finding there is no illegality or perversity in the judgments and decrees of the Courts below.

Regular Second Appeal is dismissed.

November 30, 2018

Poonam (II)

**(AMIT RAWAL)
JUDGE**

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| 1. | Whether reportable? | Yes / No |
| 2. | Whether reasoned / speaking? | Yes / No |