

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

RSA-1332-2017 (O&M)
Date of Decision: 07.09.2018

Pala Ram

--Appellant

Versus

Prem Chand

--Respondent

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

Present:- Mr. Rishav Jain, Advocate for the appellant.

TEJINDER SINGH DHINDSA.J (Oral)

A suit for recovery filed by the plaintiff Prem Chand was decreed by the Trial Court on 18.5.2015. Civil Appeal preferred by defendant-Pala Ram stands dismissed by the learned District Judge, Sangrur vide judgement dated 15.11.2016 and thereby affirming the judgement and decree of the Trial Court.

Resultantly, defendant-appellant Pala Ram is in second appeal before this Court.

Brief facts of the case are that plaintiff filed a suit for recovery of Rs.1,24,860/- i.e. Rs.84,600/- as principal amount and Rs.40,260/- as interest @ 1.5% per month w.e.f. 12.10.2009 to 4.6.2012 along with pendente lite and future interest @ 1.5% per month from the date of filing of the suit till realization. Case set up on behalf of the plaintiff was that the defendant had borrowed a sum of Rs.84,600/- in cash from him and had agreed to return such amount along with interest @ 1.5% per month. Pronote and receipt were executed on 12.10.2009 and which were duly scribed by Document Writer and witnessed by two marginal witnesses. Plaintiff had asserted that defendant had affixed his signatures on the pronote as also on the receipt. Defendant having been requested on a

number of occasions to return the amount along with interest and inspite of a legal notice dated 17.4.2012 having been served and the amount having not been returned, the suit was filed.

Suit was contested by the defendant on the pleadings that the loan amount had already been returned after raising a loan from Oriental Bank of Commerce, Sunam.

Counsel representing the appellant has vehemently argued that the courts below have overlooked the vital aspect as regards the loan amount having been returned consequent upon raising of a loan from Oriental Bank of Commerce, Sunam. It is urged that it is a case of misappreciation of evidence inasmuch as statement of account of the defendant-appellant Pala Ram Ex.D-2 was adduced on record to corroborate the factual aspect with regard to raising of loan from Oriental Bank of Commerce, Sunam.

Having heard counsel for the appellant at length, I am of the considered view that the present appeal is devoid of merit and deserves to be dismissed.

Raising of loan of Rs.84,600/- by the defendant-appellant and from plaintiff-respondent is not disputed. Even execution of the pronote and receipt dated 12.10.2009 to such effect stands conceded. Even otherwise, plaintiff-respondent had duly proved in accordance with law the execution of the pronote and receipt dated 12.10.2009 by examining the scribe/Document Writer namely Rohit Kaushik, PW-2 and both the marginal witnesses namely Pawan Kumar, PW-3 and Shivinder Singh, PW-5 and who in their deposition have corroborated the version of the plaintiff.

Original pronote and receipts were also adduced on record as Ex.P-1 and P-

2. The relevant entry in the register of the Document Writer Rohit Kaushik was adduced as Ex.P-4. Prior to institution of the suit a legal notice having also been served by the plaintiff-respondent upon defendant-appellant stands duly proved as Ex.P-5. Ex.P-7 is the postal receipt with regard to the legal notice that had been served.

During the course of arguments today before this Court it has not been controverted by counsel that even though stand of the defendant-appellant was that the entire loan amount had been returned back to the plaintiff-respondent, yet, no corroborative evidence to substantiate such assertion had been led and adduced on record. Counsel concedes that no receipt had been obtained by the defendant-appellant from the plaintiff at the stage of the alleged return of the loan amount.

In view of the above, I do not find any perversity or patent infirmity in the judgements passed by the courts below and in terms of which the suit for recovery filed at the hands of the plaintiff-respondent had been decreed.

No interference in the matter is warranted.

Appeal does not raise any question of law.

The appeal is dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

07.09.2018

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Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No