

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

114

CM-11424-C-2018 in/and
RSA-1236-2018 (O&M)
Date of Decision : 07.08.2018

Yogesh Mukhija

Appellant.....

Versus

Amandeep Singh

Respondent.....

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present :- Mr. Aman Dhir, Advocate
for the applicant/appellant.

AJAY TEWARI, J. (ORAL)

CM-11424-C-2018

This is an application for preponement of the case.

For the reasons recorded, the application is allowed. The case is preponed for today itself.

RSA-1236-2018 (O&M)

This appeal has been filed against the judgment of the lower Appellate Court reversing that of the trial court thereby decreeing a suit for recovery filed by the respondent. The case of the respondent was that he had advanced a sum of Rs.3,20,000/- by way of two cheques to the appellant from the account of his firm and since the appellant had not repaid the same, he had issued notice and, having received no reply, he filed the instant suit. The case of the appellant in the written statement was of total denial. He denied that he had taken any money from the respondent. He denied that any cheque was received by him and therefore averred that once there was no transaction at all between the parties, he was not obligated to file even a reply to the notice. During evidence, the

respondent proved that the two cheques were deposited in the account of the appellant and were credited. The trial Court, however, held that the respondent had not been able to prove that the amount was given as a loan and consequently dismissed the suit. The lower appellate court in appeal, however, held otherwise and that is how the appellant is before this Court.

Learned counsel for the appellant has tried to defend the findings of the trial court. In my opinion, his arguments must fail. It cannot be lost sight of that the appellant had completely denied any transaction. He had denied that he had ever obtained any amount from the respondent. Had he taken the plea that he had received the amount but that was under some different head, it would have been a different case. Here once his basic case is falsified and the respondent had been able to prove the deposit and credit of the two cheques, the onus shifted upon the appellant to prove for what purpose the cheques had been credited in his account. In the circumstances, the findings of the lower appellate court have to be upheld.

Appeal is dismissed. No costs.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

August 07, 2018
dk

Whether speaking/reasoned	-	Yes
Whether reportable	-	No