

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

**RSA No.1767 of 2017 (O&M)
Date of Order:07.12.2018**

Punjab and Sind Bank

..Appellant

Versus

Sudarshan Kumar and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. A.S.Kakkar, Advocate,
for the appellant.

Mr. P.K.Kataria, Advocate,
for the respondents.

ANIL KSHETARPAL, J.

Defendant-appellant- a nationalized bank is in the regular second appeal against the decree for recovery of Rs.2,93,000/-.

There was a joint account maintained by plaintiffs no.1 and 2, who has since died and now represented by her son Deepak Kumar. It is positive case of the plaintiff that officials of the bank had permitted defendant nos.2 and 3 to withdraw the amount from their accounts on the basis of cheques having forged signatures in connivance with the bank officials.

Defendant-bank had taken a stand that defendants no.2 and 3 previously used to work for the plaintiffs and, therefore, cheques were encashed.

Both the courts after appreciating the evidence have recorded a finding that signatures on the cheques in question are forged. The court has

passed a decree jointly and severally against defendants no.1 to 3 which has been affirmed by the appellate court on re-appreciating the evidence.

Learned counsel for the appellant submitted that Sudesh Rani had left behind 2 sons whereas only one has been impleaded as legal representative. Impleadment of legal heir under Order 22 of the Code of Civil Procedure is only for the purpose of prosecuting or defending the appeal. The court does not finally decide as to who is heir. Under Order 22 only legal heirs are brought on record for the purpose of continuity of the litigation.

Second argument of learned counsel for the appellant is that defendants no.3 and 4 are the persons who are guilty and therefore, decree should have been passed against them exclusively.

The court has passed a decree against all the defendants. However, in this appeal defendant no.2 has been impleaded as proforma defendant. Still further, the liberty has already been granted to the bank to recover the amount from defendant no.2.

In view of the above, this court does not find any good ground to interfere. The regular second appeal is dismissed.

December 07, 2018
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No