

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

R.S.A.No.593 of 2014 (O&M)

Date of Decision: February 21, 2018

Jasdeep Singh @ Bobi

...Appellant

Versus

Inderjit

...Respondent

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr.P.K.S.Phoolka, Advocate,
for the appellant.

Mr.Karunesh Kaushal, Advocate,
for the respondent.

AMIT RAWAL, J. (Oral)

Appellant-defendant is in Regular Second Appeal against the concurrent findings of the Courts below, whereby recovery of ₹2,70,000/- along with interest @ 8% on the principal amount with future interest @ 6% from the date of decree till realisation, has been ordered.

Respondent-plaintiff instituted the suit for recovery of the aforementioned amount of ₹2,70,000/- on the basis of a pronote and receipt dated 12.8.2006 on the premise that the defendant had agreed to repay the amount along with interest @ 1% per month on demand. The pronote and receipt were executed in the presence of the marginal witnesses and the defendant, after understanding and admitting the same, appended his signatures. When the defendant failed to pay the outstanding amount, the suit was filed preceded by legal notice dated 1.6.1999.

The appellant-defendant contested the suit by raising objections

with regard to maintainability, locus standi and denied the execution of the pronote and receipt. It was stated that the plaintiff had been dealing in the business of commission agents and selling the insecticides and pesticides. The defendant had dealings with the plaintiff and had been selling the crop through the commission agency and also used to purchase insecticides and pesticides. However, in the year 1999, the defendant along with Babu Singh son of Bhag Singh, Bhura Singh son of Tarlok Singh and Gulab Singh son of Sandhura Singh, residents of Village Kutti Kishanpura purchased insecticides and pesticides from the plaintiff, which were spurious and substandard quality, resulting into destruction of the crop. Plaintiff asked the defendant many times to continue the dealings, but he did not adhere to the aforementioned request and, therefore, the plaintiff nursed a grudge against him.

Since the parties were at variance, the trial Court framed the following issues:-

- 1) Whether on 12.08.2006, defendant borrowed a sum of Rs.2 lacs from the plaintiff and in lieu of that executed pronote and receipt in favour of the plaintiff? OPP
- 2) If issue no.1 is proved, whether plaintiff is entitled to interest at what rate on the principal amount and plaintiff is entitled to recover principal amount from the defendant? OPP
- 3) Whether pronote and receipt in question do not bear the signatures of defendant and same was forged and fabricated documents? OPD
- 4) Whether the defendant used to sell his crop at the commission agency of plaintiff and also used to purchase the

insecticide and pesticide from the shop of plaintiff? OPD

6) Relief.

Both the Courts below, on the basis of the evidence, decreed the suit. It is in this backdrop of the matter, the present appeal has been filed.

Mr.P.K.S.Phoolka, learned counsel appearing on behalf of the appellant-defendant submits that the appellant-defendant had duly examined DW-1 Gora Singh and DW-3 Balwinder Singh to prove that no pronote and receipt dated 12.8.2006 (Ex.P1 & Ex.P2) were executed, but the Courts below brushed aside the testimony of the aforementioned witnesses. The Courts below have also not appreciated the fact that respondent-plaintiff did not have any licence for money lending, which is the essential requirement of law.

He also submits that the respondent-plaintiff has miserably failed to prove the signature of the defendant on the pronote and receipt, particularly when the same was denied. All these factors have not been taken into consideration and, thus, urges this Court for allowing the appeal by setting-aside the concurrent findings.

Mr.Karunesh Kaushal, learned counsel for the respondent-plaintiff submits that the concurrent findings cannot be interfered with unless and until there is a gross illegality or perversity. The witnesses to the pronote and receipt were examined, thus, there is compliance of Section 68 of the Evidence Act, much less provisions of Section 118 of the Negotiable Instruments Act. There was no need of proving the licence as the respondent-plaintiff was not the regular money lender and, thus, urges this Court for dismissal of the appeal.

I have heard the learned counsel for the parties, appraised the paper book and of the view that there is no force and merit in the submissions of the learned counsel for the appellant-defendant, for, PW-1 Tarsem Kumar and PW-3 Vijay Kumar have proved the execution of pronote and receipt (Ex.P1 & Ex.P2). Same were read over and explained to the defendant, who signed the same in their presence. In my view, the respondent-plaintiff discharged the onus by proving the same. There was no need for examination of the expert. Once the pronote and receipt have been proved, there has to be compliance under Section 118 of the Negotiable Instruments Act, which has not been rebutted.

The witnesses of the defendant toe to the line of the defendant, but the fact of the matter is that if at all the defendant had not appended his signature, he could have taken the assistance of the expert in order to surface the truth. All these facts have been looked into by both the Courts below.

For the reasons stated above, no ground for interference in the concurrent findings of the Courts below is made out. No substantial question of law arises for determination. Resultantly, the appeal is dismissed.

February 21, 2018
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No