

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

RSA-3995-2018 (O&M)

Date of decision: July 09, 2018

Jaswant Singh (deceased) through
his LRs

...Appellant

Versus

Navjit

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Gourav Jain, Advocate for the appellant(s).

Rajan Gupta, J.

Present appeal has been preferred to impugn findings of Additional District Judge, Sirsa on the ground that same are perverse and based on misappreciation of evidence.

Plaintiff Navjit filed a suit for recovery of Rs.4,35,000/- against Jaswant Singh (now deceased), with the averments that defendant had taken a loan of Rs.3.00 lacs from the plaintiff on 25.02.2010 for a period of 4-5 months and interest was agreed to be paid @ 2% per month. A pronote and receipt was also executed in his favour in the presence of witnesses. After a period of six months, when plaintiff demanded his money back, defendant started avoiding on one pretext or the other and ultimately, a legal notice dated 25.04.2011 was also served upon the defendant, but even then the defendant failed to repay the money. Suit was resisted by the defendant, who took up the plea that suit was not

maintainable as plaintiff had no money lending licence. He also denied any loan having been received from the plaintiff on the ground that he used to sell his agriculture produce to M/s Jaiya Trading Company, Sirsa and his signatures were obtained by the plaintiff on some blank papers, who later on misused the same. Certain issues were framed by the trial court. It dismissed the suit by observing that the alleged amount was never paid by the plaintiff to the defendant. Aggrieved, plaintiff filed appeal before the first appellate court. The Additional District Judge, Sirsa, vide judgment and decree dated 15.02.2018, decreed the suit for recovery of Rs.3.00 lacs alongwith interest @ 12% per annum from the date of advancement i.e. 25.02.2010 till filing of the suit alongwith *pendente lite* and future interest @ 6% per annum till realization with proportionate costs. The first appellate court observed that plaintiff had fully proved execution of pronote Ex.P1 and receipt Ex.P2 by the defendant in his favour, while appearing himself as PW-1 and examining S.P. Taksia, Advocate as PW-2, who deposed that documents Ex.P1 and P2 were scribed by him and same were signed by the defendant (appellant herein). PW-3 Pardeep Kumar and PW-4 Mohan Lal, who are attesting witnesses of the pronote and receipt, deposed that these documents were executed in their presence and same were signed by appellant Jaswant Singh.

I find no infirmity with the finding arrived at by the first appellate court. It appears, the trial court had wrongly dismissed the suit without appreciating the evidence adduced by the plaintiff. Only plea raised before this court is that judgment of the first appellate court is

based on misappreciation of evidence as well as law. I find no substance in this plea. The findings of the first appellate court suffer from no infirmity. No other plea has been urged.

Dismissed.

CM-10602-C-2018 & CM-10603-2018:

Since the main appeal has been dismissed on merits, these applications for condonation of delay as well as application U/O 41 Rule 5 CPC do not survive and the same are also dismissed.

(RAJAN GUPTA)
JUDGE

July 09, 2018
'Rajpal'

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