In the High Court of Punjab and Haryana at Chandigarh

RSA- 4024 of 2018(O&M)
Date of Decision: 5.12.2018

Bhushan Kumar

---Appellant

versus

Baldev Singh

---Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. PKS Phoolka, Advocate
for the appellant

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Rekha Mittal, J.

The present appeal directs challenge against concurrent findings recorded by the courts whereby suit for recovery on the basis of pronote and receipt dated 13.8.2015 was decreed by the trial court vide judgment and decree dated 24.3.2017 and suit of the respondent-plaintiff was decreed to the tune of Rs. 8,17,000/- with pendente lite interest @ 9% per annum from the date of filing of the suit till the date of decree and future interest @ 6% per annum from the date of decree till realization. The appeal preferred by unsuccessful appellant-defendant did not find favour with the District Judge, Bathinda and the same was dismissed with costs.

Counsel for the appellant has assailed concurrent findings primarily on two grounds. The first submission made by counsel is that the respondent-plaintiff has not adduced satisfactory evidence to prove his capacity to lend huge amount of more that Rs. 8 lakhs to the appellant. Another submission made by counsel is that the respondent is a money lender but he has failed to produce his money lenders licence, therefore, the suit is not maintainable and liable to be dismissed on this score alone.

I have heard counsel for the appellant, perused the paper book but find that the present appeal sans merit and deserves outright rejection.

The respondent-plaintiff has staked his claim for recovery on the basis of pronote and receipt dated 13.8.2015. He has proved the documents, in accordance with law. Pronote is a promissory note and there is a presumption under Section 118 of the Negotiable Instruments Act, 1881 that the same is for consideration but the same is rebuttable one. Counsel has failed to point out any materials on record to rebut presumption available in favour of holder of pronote, therefore, contention of the appellant that the respondent has failed to prove his capacity to lend money is patently misconceived and liable to be rejected.

So far as contention with regard to money lenders licence is concerned, there is no material on record to show that the respondent-plaintiff had been indulging in business of money lending requiring him to possess a licence to maintain a suit for recovery.

No other point has been raised.

In view of what has been discussed hereinbefore, finding no merit, the appeal fails and is accordingly dismissed in limine. As the appeal has been decided on merits, application for condonation of delay in refiling the appeal is of academic relevance only.

(Rekha Mittal)
Judge

5.12.2018
PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No