

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

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**RSA No.5294 of 2017 (O&M)
Date of Decision : 08.01.2018**

M/s Gopal Krishan Naresh Kumar and others Appellants

Versus

Dhanpat Rai Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Anil Kumar Garg, Advocate for the appellants.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the concurrent judgments of the Courts below allowing a suit filed by the respondent claiming money from the appellants.

The case of the respondent was that he was an agriculturist who used to sell his purchase through the appellant No.1-firm and that as on 31.03.2008 the appellants owed him an amount of Rs.5,69,949/- which the appellants were not paying. The case of the appellants on the other hand was of blanket denial. As per the appellants, the respondent was neither an agriculturist nor he had any dealing at all with the appellant No.1-firm. The evidence relied upon by the respondent was some 'J' forms issued by the appellant No.1-firm for the year 2005 and an acknowledgment dated 31.03.2008 purportedly executed by the appellants accepting that as on that date a sum of Rs.5,69,949/- was due to the respondent.

As mentioned above the case of the appellants was that neither had it executed any 'J' forms nor had it executed any letter dated 31.03.2008

and these were forgeries/fabrications/creations. The Courts below found

that the 'J' forms were genuine and were those which had been issued to the appellants by the Market Committee. Learned counsel for the appellants has also accepted this. As regards the acknowledgment the Courts below relied upon on the original document which was placed on record as Exhibit P-29 and held that the suit was therefore not beyond limitation. The only argument raised by the learned counsel is that once the appellants had denied the execution of document exhibit P-29 it was incumbent upon the respondent to have proved the same by leading cogent evidence including that of a hand writing expert.

In my opinion this argument can not prevail. The appellants never cross-examined the respondent to the effect that the pad on which the exhibit P-29 was executed was not that of the appellants or that the stamp which appeared below the signatures was not that of the appellants.

In these circumstances the action of the Courts below in believing the document and in not disbelieving it only on the ground that a hand writing expert was not produced would not tilt the preponderance of probability in favour of the appellants.

In the circumstances, no fault can be found with the judgments and degrees of the Courts below.

Appeal is dismissed.

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

(AJAY TEWARI)
JUDGE

08.01.2018
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Whether speaking/reasoned - Yes/No
Whether reportable - Yes/No