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

RSA No. 5447 of 2017 (O&M)
Date of Decision: 06.09.2018

The United India Insurance Co. Ltd. and another

....Appellants

Vs

M/s Truck Operators Association

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Munish Goel, Advocate,
for the appellants.

RAJ MOHAN SINGH, J.(Oral)

1. Perusal of the record would show that during pendency of the suit, an application under Section 65 of the Evidence Act was filed on behalf of the plaintiff to seek permission to prove execution of documents relied by the plaintiff.

2. PW1 was examined who has allegedly identified signatures of the concerned persons on the documents. Evidently, PW1 was neither signatory of the aforesaid documents nor has seen the concerned persons signing the documents in ordinary course of business of the Company.

3. Despite the permission having been granted under Section 65 of the Evidence Act, plaintiff could not prove

execution of the documents (Ex.P3 to Ex.P8, Ex.P11, Ex.P12 to Ex.P16, Ex.P17, Ex.P19, Ex.P20, Ex.P21, Ex.P22 and Ex.P24).

Original of the aforesaid documents have not been made available on record and the plaintiff could not lead such evidence so as to prove execution of aforesaid documents by way of secondary evidence.

4. Mere exhibition of documents does not dispense with proof of execution.

5. In my considered opinion, the findings recorded by both the Courts below cannot be said to be on account of misreading of evidence or having suffered with any perversity.

6. Plaintiff has to stand on the strength of his own case. The executants of the documents have not been examined.

7. No lawful point worth consideration is involved in the present appeal.

8. This regular second appeal is found to be totally devoid of merits and the same is accordingly dismissed in limine.

CM-14487-C-2017

Since the main appeal has been dismissed in limine, therefore, there is no necessity of deciding the application under Section 5 of the Limitation Act.

CM-14488-C-2017

For the reasons mentioned in the application, delay of 22 days in re-filing the present appeal is condoned.

Application stands disposed of.

06.09.2018

Jyoti Yadav

**(RAJ MOHAN SINGH)
JUDGE**

1. Whether speaking/reasoned : Yes/No

2. Whether reportable : Yes/No