

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CM-13822-23-C-2018 in/and
RSA-5071-2018 (O&M)
Date of Decision : 2.11.2018

Harbans Singh

....Appellant

vs.

Jaswant Singh

....Respondent

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr.Deepak Gupta , Advocate
for the appellant.

AJAY TEWARI, J. (Oral)

CM-13822-C-2018

For the reasons recorded, the application is allowed. Delay of
37 days in filing the appeal is condoned.

CM-13823-C-2018

For the reasons recorded, the application is allowed. Delay of
303 days in refiling the appeal is condoned.

Main Case

This appeal has been filed against the concurrent judgments of
the Courts below decreeing a suit for recovery filed by the respondent on
the basis of pronote.

In the written statement the appellant took the stand that he had
never borrowed any money but had earlier entered some transaction with the
respondent and at that time the respondent may have taken some signed
documents. The Trial Court held that the respondent had been able to prove

the pronote and decreed the suit. During the appeal when the case was fixed for final arguments the appellant moved an application for additional evidence claiming that he had come to know that infact even signature which were bearing on the pronote were not his and were a forgery and prayed that he may be permitted to lead additional evidence in the form of handwriting expert to prove the same. The lower Appellate Court rejected this application (as well as the appeal) holding that in the written statement it had not been pleaded by the appellant that his signature were forged and fabricated and consequently, he could not be allowed to change his case entirely at that stage.

Before me, learned counsel has argued that the respondent was a farmer and he had admitted that he had earlier also given money on loan to two different persons. To my mind, this would not be enough to hold that preponderance of probability was not in favour of the respondent.

In the totality of the circumstances, I am not persuaded to hold that the findings of the Courts below are either based on no evidence or on such perverse misreading of the evidence so as to justify interference of this Court in second appeal.

Consequently, the appeal stands dismissed.

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

**(AJAY TEWARI)
JUDGE**

**2.11.2018
anuradha**

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