

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

RSA-864-2018 (O&M)

Date of decision : 16.4.2018

C.P. Chugh and another

..... Petitioners

Versus

Balwant Kumar

..... Respondent

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Gaurav Kathuria, Advocate for the appellants.

1. *Whether the Reporters of local newspaper may be allowed to see the judgment ?*
2. *To be referred to the Reporter or not.*
3. *Whether the judgment should be reported in the digest ?*

KULDIP SINGH J. (ORAL)

Impugned in the present regular second appeal is the judgment dated 6.9.2017 passed by learned District Judge, Faridabad, affirming the judgment and decree dated 23.12.2015 passed by learned Civil Judge (Senior Division), Faridabad, vide which suit filed by plaintiff-respondent was decreed for Rs. 3,00,000/- with interest @ 9% per annum. Counter claim filed by the defendant-appellants was also dismissed.

As per the averments made in the plaint, plaintiff invested Rs. 3,00,000/- in the company being run by defendants in the name and style i.e. M/s Surya Investment Pvt. Ltd. Both the defendants are directors of the said company. Plaintiff deposited Rs. 2,50,000/- through cheque and Rs. 50,000/- was paid in cash. A receipt in this regard was issued by defendant No. 1-C.P.Chug. The amount was deposited for 32 months with assurance that money will be doubled within two months. However, money was not refunded.

Learned counsel for the appellants submits that the money was allegedly deposited with the company and company was not made party. Therefore, the suit against the directors could not be decreed. However, the averments shows that the receipt was issued by defendant No. 1-C.P.Chugh. Photocopy of the said receipt has been shown to this Court which is not allegedly issued on behalf of the company. Though defendant No. 1 has denied the signature on the said receipt but he did not examine any expert to prove that the signatures are forged. Therefore, apparently defendants did not act on behalf of the company and acted in their personal capacity and defrauded the plaintiff to invest money on the promise that the same will be doubled. Therefore, they had the personal liability. Since the liability of the company was not there, therefore, company was not required to be made party.

There are concurrent findings of both the Courts below. No ground to interfere in the judgment dated 6.9.2017 passed by learned District Judge, Faridabad, affirming the judgment and decree dated 23.12.2015 passed by learned Civil Judge (Senior Division), Faridabad is made out.

Dismissed.

Since, the main petition has been dismissed, the miscellaneous application pending, if any, shall stand disposed of.

(KULDIP SINGH)
JUDGE

16.4.2018
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Whether speaking / reasoned	Yes
Whether Reportable:	No