

HIGH COURT OF CHHATTISGARH, BILASPUR**Second Appeal No. 250 of 2008**

Yogesh Kumar, S/o. Prithwiraj Chopra (Jain), Aged about 40 years, R/o.
Village & Post Office – Nipani, Tahsil – Patan, District Durg (C.G.)

----Appellant/Defendant

Versus

Manish Kumar, S/o. Mangal Chand Jain, Aged about 32 years, R/o. Village
& Post Office – Jamgaon (R), Tahsil – Patan, District Durg (C.G.)

----Respondents/Plaintiff

For Appellant : Mr. Arvind Kumar Dubey, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

11/09/2019

(1) Heard on the question of admission and formulation of substantial question of law on this second appeal preferred by defendant under Section 100 of the Code of Civil Procedure, 1908.

(2) Learned counsel appearing for the appellants/defendants would submit that both the courts below were absolutely unjustified in granting decree of Rs.35,000/- in favour of the plaintiff and that give rise to substantial question of law for determination.

(3) The plaintiff preferred a suit for recovery of Rs.35,000/- against the defendant stating inter alia that defendant has taken loan of Rs.35,000/- on different dates and he has not paid the rent, therefore, he is entitled for the said amount.

(3) The trial Court by its judgment & decree dated 28.02.2007 held that loan was

taken by the defendant from the plaintiff and granted decree of Rs.35,000/- in favour of the plaintiff. On appeal being preferred, it was upheld by the first appellate Court by the impugned judgment & decree dated 16.04.2008.

(4) Both the courts below have concurrently recorded a finding that defendant has taken loan of Rs. 35,000/- on different dates from the plaintiff and he has not paid the loan, therefore, the plaintiff is entitled for the decree of Rs. 35,000/- against the defendant. This finding of fact arrived at by the two courts below is based on material available on record and I do not find it either perverse or contrary to record and no question of law much less substantial question of law is involved in this appeal.

(5) Accordingly, the second appeal, being devoid of merit, is liable to be and is hereby dismissed in *limine*.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-

