

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURFA No. 331 of 2019

Bachan Tandi, W/o Late Atla Tandi, Aged about 53 Years,
Occupation- Railway Employee, R/o Quarter No. 16B, Railway
Colony, Balod, Tahsil & District Balod (C.G.) ---- **Appellant**

Versus

Manoj Kumar Sharma, S/o Maheshwar Sharma, Aged about 36
Years, Occupation- Auto Deal, R/o Behind Tarun Talkies,
Santrabadi, Durg, District Durg (C.G.) ---- **Respondent**

For Appellant : Mr. Rajkumar Pali, Advocate.

For Respondent : None.

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board30/08/2019

1. This appeal is preferred against the judgment/decreed dated 29th March, 2019 passed by First Additional District Judge, Durg, District- Durg (C.G.) in Civil Suit No. 46-B/2015 wherein the said Court decreed the suit filed by the respondent/plaintiff for recovery of Rs. 60,000/- against the appellant/defendant.
2. The suit is filed on the ground that the appellant took Rs. 60,000/- on credit from the respondent for his domestic requirements in presence of witnesses and an agreement to this effect was executed on stamp paper of Rs. 50/-. However, despite demand being made by the respondent on several occasions, the appellant did not pay back the said amount and avoided its payment on one pretext or the other that is why suit was filed which was decreed by the trial Court.
3. Learned counsel on behalf of the appellant submits that signature of the appellant is not proved in the said stamp (Ex.P/1), therefore, case is not established. He further submits that no notice was served to appellant and suit filed by the respondent is false and baseless.

4. It is a case of simple money transaction between the parties.

Respondent Manoj Kumar Sharma deposed before the trial Court that he advanced a sum of Rs. 60,000/- to the appellant on 14th March, 2012 in presence of Jageshwari Sharma and Prakash Rajvaidh. Prakash Rajvaidh deposed in favour of respondent before the trial Court as PW-2 and as per his version Rs. 60,000/- was advanced to the appellant by the respondent in his presence. Version of this witness (Ex.P/1) is not rebutted in cross-examination. The case of the appellant is mere denial and same is not sufficient to discard the oral or documentary evidence adduced on behalf of the respondent.

5. The trial Court has elaborately discussed the issue and recorded a finding that amount of Rs. 60,000/- was advanced by the respondent. When there is direct evidence corroborating the evidence of respondent the examination of handwriting expert is not required because any expert opinion is advisory in nature. Direct evidence is more reliable which is produced before the trial Court by the respondent. When oral request for repayment is made repeatedly, notice in writing is not required. Argument advanced on behalf of appellant is not sustainable. It is not a case where the respondent should be called for full consideration of this appeal. It is also not a case where the judgment/decreed is liable to be interfered with while invoking jurisdiction of the appeal.
6. Accordingly, this appeal is liable to be and is hereby dismissed at the motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge