

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

18 SECOND APPEAL NO.136 OF 2018

SUNIL RAMDAS WARKE
VERSUS
USHABAI GOVIND BHIRUD

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Advocate for Appellant : Shri Wani Girish V.

CORAM: V.L. ACHLIYA, J.

DATE: 30.09.2019

PER COURT :

1] Being aggrieved by the concurrent decisions rendered by the Courts below, the appellant – original defendant has preferred this second appeal.

2] Heard learned counsel for the appellant. Perused the judgment and decree passed by the trial Court and confirmed in appeal.

3] On due consideration of the submissions advanced in the light of reasons and findings recorded by the Courts below, I am of the view that no case is made out to entertain the appeal. There are concurrent findings on facts recorded by the Courts below. There is absolutely no perversity in any of the reasons and findings recorded by the Courts below. The plaintiff has

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approached with a case that the defendant has secured hand loan of rupees two lakhs and promised to repay the same. Since the defendant has failed to repay the hand loan, the plaintiff has filed the suit. In support of the case, the plaintiff has examined himself and produced the receipt acknowledging hand loan from plaintiff scribed on the stamp paper was purchased by none other than the defendant. Besides this, the plaintiff has examined the witnesses to the hand loan receipt executed by defendant / appellant. The trial Court has observed that nothing has been elicited in the cross-examination to find favour to the case of the defendant. The defendant though filed affidavit in examination in chief failed to offer for cross-examination. In the light of overall pleadings and evidence, the trial Court has decreed the suit. In appeal, the appellate Court has confirmed the decision of the trial Court on reaching to conclusion that the findings on facts recorded by the Court below calls for no interference in exercise of appellate jurisdiction. In that view, there is absolutely no perversity in the judgment and decree passed by the trial Court and confirmed in appeal. In

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absence of any case being made out to entertain the appeal u/s 100 of the Code of Civil Procedure, I am not inclined to entertain the appeal. Accordingly, the appeal is dismissed.

(V.L. ACHLIYA, J.)