

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR.

Second Appeal No.427 of 2018

(Takhatmal Shrivallabh Charitable Trust, registered Public Trust, through its Trustees .vs. The Central Bank of India, a Nationalized bank company, having Registered Office at Chandramukhi, Nariman Point, Mumbai-21 and Branch Office at Morshi Road, Amravati.)

 Office Notes, Office Memoranda of Coram,
 appearances, Court's orders or directions
 and Registrar's orders

Court's or Judge's orders.

 Mr. J.B. Kasat, Advocate for Appellants.

CORAM : Manish Pitale, J.
DATED : October 18, 2019.

By this appeal, the appellants (original plaintiffs), who are trustees of a charitable trust, have challenged concurrent judgments and orders passed by the two Courts below dismissing the suit for recovery filed by the appellants against the respondent Bank (original defendant).

2. The case of the appellants was that due to negligence of officials of respondent Bank, certain cheques of the trust were passed which were never issued by the concerned authorised signatories of the trust, due to which monetary loss was caused to the trust.

3. The trial Court in the present case took into consideration the entire oral and documentary evidence on record and found as a matter of fact that despite there being a report of the handwriting expert that there was some discrepancy in the signature, on comparison of the signature, it was found that the report of the

handwriting expert could not be relied upon. This was in the specific backdrop of the fact that the signatories themselves conceded that there had been instances of change in signatures of such signatories. The admitted signatures were compared by the Court with the signatures on the cheques and it was found that no negligence was attributable to the officials of the respondent-Bank in the present case.

4. The trial Court also specifically recorded admissions given by witnesses of the appellants to the effect that every time when a cheque was issued, entry pertaining to the earlier cheque issued was ascertained. This would show that if at all there had been a case of cheque being misused, the fact would have been immediately noticed by the concerned persons of the appellant-Trust. This fact was also taken into consideration by the trial Court while holding against the appellants and dismissing the suit.

5. The appellate Court has also taken into consideration the material on record and upon appreciation of the same independently, the appellate Court has reached conclusions against the appellants. The findings rendered by the two Courts below are findings rendered on facts and no substantial question of law arises for consideration in the present appeal. Accordingly, the appeal is dismissed.

JUDGE