

In the High Court of Punjab and Haryana at Chandigarh

**RSA- 792 of 2019(O&M)
Date of Decision: 10.7.2019**

Hardev Singh

---Appellant

versus

Prem Chand

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Vikas Mehsempuri, Advocate
for the appellant**

Rekha Mittal, J.

Challenge in the present appeal has been directed against concurrent findings recorded by the courts whereby suit for recovery on the basis of pronote and receipt dated 6.11.2013 filed by the respondent-plaintiff was decreed by the trial court vide judgment and decree dated 11.4.2017 and appeal preferred by unsuccessful defendant-appellant came to be dismissed by the Additional District Judge, Sangrur.

Counsel for the appellant, in line with allegations raised in the written statement, would contend that pronote and receipt have been prepared on blank signatures of the appellant obtained by Mohan Lal brother of plaintiff Prem Chand as appellant was selling his crop through commission agency of M/s Banarasi Dass Mohan Lal, commission agent, Bhawanigarh. It is further argued that respondent Prem Chand appeared in the witness box and failed to prove his relationship with the appellant, therefore, there was no reason for him to lend an amount of Rs. 3.5 lakhs to

the appellant. In addition, it is argued that in the plaint, there is no reference to name of person who scribed the pronote and receipt, therefore, evidence adduced by the respondent that pronote and receipt were scribed by Rajiv Kumar PW4 is beyond pleadings. It is submitted that Rajiv Kumar PW4 is none else but nephew of respondent Prem Chand. Counsel would apprise that statement of Avtar Singh PW1, an attesting witness of the receipt is conspicuously silent with regard to presence of Rajiv Kumar at the time of execution of pronote and receipt. It is argued that facts brought forth in cross examination of witnesses and plaintiff create doubt qua genuineness of the documents relied upon by the respondent and indicate that plea of the appellant-defendant with regard to blank signatures is correct and well founded.

I have heard counsel for the appellant, perused the paper book and records.

Before adverting to the submissions made by counsel for the appellant, it is necessary to recapitulate that in the second appeal the court on the basis of re-appreciation of evidence cannot intervene in concurrent findings of fact based on materials on record merely because another view is possible. The second appeal can be admitted for hearing if it raises a question of law.

Indisputably, the appellant-defendant has admitted his signatures on the pronote and receipt but with the plea that he signed blank pronote and receipt at the behest of Mohan Lal brother of respondent Prem Chand as the appellant was selling his produce through commission agency of said Mohan Lal.

Perusal of written statement would reveal that plea of the

appellant is that he signed several blank documents including pronotes and receipts at the behest of Mohan Lal. It is difficult to accept to reason that a prudent person would append his signatures on blank documents at the behest of a commission agent knowing fully well that the same can be misused. There is nothing on record suggestive of the fact that the appellant owed an obligation towards said Mohan Lal to create compulsion for him to put his blank signatures. As per the settled position in law, once a litigant admits his signatures on a particular document, he has to discharge onus as to the circumstances under which he appended his blank signatures on the document. Except the bald statement of the appellant, there is no other materials on record to substantiate his plea in this regard. The discrepancies in the case of respondent, pointed out by counsel, in my considered opinion, by no stretch of imagination lead to an inkling much less conclusion that pronote and receipt were prepared on blank signatures of the appellant-defendant. That being so, it is difficult to accept contention of the appellant that judgments impugned suffer from an error much less perversity or raise a question of law that require determination in second appeal.

In view of what has been discussed hereinbefore, finding no merit, the appeal fails and is accordingly dismissed in limine. As the appeal has been decided on merits, application for condonation of delay in refiling the appeal is of academic relevance.

(Rekha Mittal)
Judge

10.7.2019

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No