

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**RSA No.4749 of 2019 (O&M)
Date of decision: 23.10.2019**

Ranjana Rani

.....Appellant

Versus

M/s Guru Nanak Marble through its registered partners

.....Respondent(s)

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Rahul Bhargava, Advocate,
for the appellant.

Ritu Bahri, J.

CM Nos.13529-13530-C of 2019

For the reasons mentioned in the applications, duly supported by affidavits, same are allowed and delay of 60 days in filing & 159 days in re-filing of the appeal is condoned.

FAO No.4749 of 2019 (O&M)

This appeal has been filed against the judgment dated 12.09.2018 passed by the Additional District Judge, Sangrur, dismissing an appeal filed by defendant-appellant (hereinafter referred to as 'the defendant') against the judgment and decree dated 05.11.2016 passed by the Additional Civil Judge (Senior Division), Dhuri, whereby suit filed by plaintiff-respondent (hereinafter referred to as 'the plaintiff'), has been decreed.

M/s Guru Nanak Marble-plaintiff (respondent herein), through its partners, filed a suit for recovery of Rs.8,43,963/- with the averments that defendant (appellant herein) was owner of a Petrol Pump, known as Radha

had good relations with the plaintiff firm and had borrowed a sum of Rs.6,30,000/- from the plaintiff through cheques, details of which, have been given in the plaint. The defendant had agreed to pay interest at the rate of 12% per annum on the loan amount. However, despite repeated requests, she had not returned the loan amount to the plaintiff. Hence, the suit.

Upon notice, defendant (appellant) filed written statement taking preliminary objection with regard to the maintainability of the suit etc. It was submitted that whole of the business and property of defendant was being looked after by her husband Pawan Kumar. Defendant had filed a suit for permanent injunction against Deepak Kumar and Harjinder Singh for restraining them from interfering in their business. The present suit has been filed as a counter-blast at the instance of Harjinder Singh, one of the partners of the plaintiff firm. All other allegations made in the plaint were denied and prayer for dismissal of the suit was made.

From the pleadings of the parties, following issues were framed by the trial Court:-

1. Whether the plaintiff is entitled for recovery as prayed for?
OPP
2. Whether the suit is not maintainable? OPD
3. Whether the present suit is beyond the period of limitation?
OPD
4. Relief.

Trial Court, after hearing learned counsel for the parties, decreed the suit. Appeal against the said judgment also met the same fate.

Heard.

Before the trial Court, Balwinder Singh, one of the partners of plaintiff firm, appeared as PW-2 and deposed that the defendant (appellant

herein) had borrowed an amount of Rs.6,30,000/- from the plaintiff firm

through cheques. He proved on record Form-A as Ex.PW2/B regarding registration of his firm, copies of account book as Ex.PW2/C and Ex.PW2/D. Om Parkash, Clerk, PNB, Sherpur (PW-1) proved certified copies of account No.0856008700000781 Ex.P1, statement of account of Radha Krishan Filling Station Ex.P2 and cheques Ex.P3 o Ex.P5. He further deposed that an amount of Rs.6,30,000/- had been transferred from the account of plaintiff firm in the account of defendant firm i.e. Radha Krishan Filling Station.

Transfer of money from the account of plaintiff firm to the account of defendant was duly proved. Plaintiff firm has also proved on record Form-A Ex.PW2/B showing that their firm was registered with the Registrar of Firms.

Learned counsel for the appellant has argued that registration of the firm was never proved by the plaintiff by examining any officer from the office of Registrar, therefore, the suit was not maintainable.

With respect to this argument, the appellant-defendant was required to lead evidence on issue No.2 in order to prove that Form-A Ex.PW2/B was a fake document. However, no evidence was led by the defendant (appellant) to prove this issue. Since the above said document was having a stamp of the office of Registrar of Firms, finding given by the Courts below on this issue cannot be reversed as the onus to prove the same was on the defendant herself. On the question of limitation, the Courts below have observed that the cheques in question were dated 11.08.2011, 30.08.2011 and 07.10.2011 and the suit was filed on 25.03.2014, which was well within three years.

After going through the impugned judgments and documents

relied upon by the parties, this Court is of the view that suit of the plaintiff-respondent has been rightly decreed by both the Courts below. No illegality, much less perversity, has been found therein, warranting interference by this Court. The evidence has been appreciated in the right perspective.

No substantial question of law arises for consideration in this appeal.

Dismissed.

23.10.2019
ajp

(RITU BAHRI)
JUDGE

Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No