

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

**RSA No.2714 of 2019(O&M)
Date of Decision: 25.09.2019**

Gurmail Singh

.....Petitioner

Versus

Sukhdev Singh

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present:Mr. Manish Singh, Advocate
for the petitioner.

RAJ MOHAN SINGH, J.

[1]. Defendant is in regular second appeal against the concurrent judgments and decrees passed by the Courts below in a suit for recovery.

[2]. Plaintiff filed a suit for recovery of Rs.11,32,400/- including principal amount of Rs.9,50,000/- and interest of Rs.1,82,400/- w.e.f. 07.08.2014 on the basis of pronote and receipt dated 07.08.2014. Plaintiff also sought permanent injunction, restraining the defendant from alienating his land as detailed in the headnote of the plaint. Plaintiff alleged that on 07.08.2014, defendant borrowed an amount of Rs.9,50,000/-

from the plaintiff @ 1.5% interest per month and also promised to return the same on demand. Defendant executed pronote and receipt on 07.08.2014 which was scribed by deed writer at the instance of the defendant and was attested by the marginal witnesses.

[3]. In the written statement, defendant denied borrowing of any amount from the plaintiff and execution of any pronote and receipt in favour of the plaintiff. He further stated that father of the defendant namely Harcharan Singh had borrowed a sum of Rs.59,000/- from Baldev Krishan and executed pronote and receipt dated 09.10.2003. The said amount was returned to Baldev Krishan by father of defendant after borrowing the same from the plaintiff. Thereafter, defendant had returned the amount to the plaintiff. He further stated that the plaintiff got some signatures of the defendant on pronote and receipt under the influence of liquor and pronote and receipt are the result of forgery and fabrication.

[4]. After completion of pleadings, both the parties went to trial on definite issues.

[5]. Plaintiff got examined Dalwinder Singh as PW 1 who is marginal witness of pronote and receipt. He identified his signature on the same. Plaintiff himself appeared as PW 2 and endorsed the pleadings made in the plaint. The execution of

pronote and receipt i.e. Ex.P1 and Ex.P2 has been proved with the testimony of scribe and attesting witnesses namely Dalwinder Singh PW 1 and Nirbhai Singh PW 3. Pronote and receipt were scribed by Narinder Kumar Gupta who has been examined as PW 4. The execution of pronote and receipt has been proved on record.

[6]. Defendant could not lead any evidence with regard to return of the amount or commission of any forgery viz-a-viz taking of his signatures on blank papers. Once the execution of pronote and receipt was proved, the onus was heavily shifted upon the defendant to prove that the same was forged and fabricated. The testimonies of scribe and attesting witnesses went in a long way to prove due execution of pronote and receipt. Defendant could not lead any such incriminating material to substantiate his line of action, nor cross-examination of PW 5 could bring out any such incriminating material in favour of the defendant. In the written statement, the defendant did not plead any such defence that the plaintiff is a money lender. Any argument based on such a plea in the absence of any pleadings and evidence cannot be appreciated.

[7]. Both the Courts below have concurrently found due execution of pronote and receipt. The appreciation of evidence done by the Courts below cannot be held to be the result of

misreading of evidence in any manner, nor suffered with any perversity. No question of law worth consideration is involved in the present appeal. This appeal is accordingly dismissed in *limine*.

25.09.2019
Prince

(RAJ MOHAN SINGH)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No