

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

RSA No. 4297 of 2019(O&M)

Date of decision: 29.11.2019

Gurvinder Singh and anotherAppellants

VERSUS

Jarnail SinghRespondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. D.S. Malwai, Advocate for the appellants.

REKHA MITTAL, J. (Oral)

Challenge in the present appeal has been directed against concurrent findings recorded by the Courts whereby suit for recovery was decreed by the trial Court vide judgment and decree dated 06.12.2018, to the following effect:-

“Up shot of my above discussion, the suit of plaintiff is hereby decreed with costs. Plaintiff is held entitled to recover principal amount of Rs.3,00,000/- from the defendants along with interest @ 6% per annum from the date of filing the present suit till realization of decreetal amount.”

The appeal preferred by the appellants/defendants was dismissed by the Additional District Judge, Sangrur vide decree and judgment dated 05.07.2019.

Counsel for the appellants, in line, with the submissions made in the written statement would argue that Manpreet Singh grandson of the respondent/plaintiff was partner of M/s Uppal Commission Shop and the

respondent obtained blank cheque in dispute from said Manpreet Singh and misused the same for initiating proceedings under Section 138 of the Negotiable Instruments Act as well as civil suit for recovery. It is further argued that firm M/s Uppal Commission Shop, Grain Market, village Jhuner did not remain in existence since March 2013, therefore, the question of borrowing Rs.3,00,000/- and issuance of cheque in question dated 20.11.2013 did not arise by any stretch of imagination. Counsel would further submit that criminal proceedings initiated by respondent/plaintiff are subject matter of final adjudication of criminal revision pending before this Court.

I have heard counsel for the appellants, perused the paper-book particularly the judgments impugned. The Courts have consistently held that Gurvinder Singh – appellant has not disputed his signatures on the cheque in dispute amounting to Rs.3,00,000/-. The trial Court, in para 11 of the judgment, has adverted to the documents Ex.D1 to D4 on the basis whereof the appellant sought to establish that Manpreet Singh was one of the partners of M/s Uppal Commission Shop, Grain Market, village Jhuner. Counsel for the appellants, in response to a query, has expressed his inability to point out any materials on record to dispute the factual findings that there is no evidence that Manpreet Singh was working partner or had been managing the affairs of the firm. He has also fairly conceded that no such plea was raised in the written statement that the firm M/s Uppal Commission Shop, Grain Market, village Jhuner stopped its business in March 2013 nor any evidence in this regard was produced. In the given circumstances, the appellants cannot derive any advantage to their contention from factual controversy sought to be raised for the first

time in second appeal. Counsel has failed to advance any meaningful argument to prove that consistent findings recorded by the Courts suffer from an error much less perversity that would call for intervention.

For the foregoing reasons, finding no merit, the appeal fails and is accordingly dismissed in limine.

NOVEMBER 29, 2019		(REKHA MITTAL)
‘D. Gulati’		JUDGE
Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no