

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

**RSA No.1344 of 2016
Date of decision:16.05.2019**

Mohan Lal Gupta

... Appellant

Vs.

Vijay Kumar

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Arun Bansal, Advocate and
Ms. Baani Chhibber, Advocate
for the appellant.

AMIT RAWAL J.

The present regular appeal at the instance of the appellant-plaintiff is directed against the concurrent findings of fact and law whereby suit for recovery of Rs.66,500/-, has been dismissed.

It was alleged that on 9.9.2006, a sum of Rs.50,000/- was advanced to the defendant which was encashed and in lieu thereof, had agreed to pay the aforesaid amount along with interest at the rate of Rs.18% per annum.

The defendant opposed the suit and asserted that plaintiff had not come to the Court with clean hands. In fact, the plaintiff was employed as a Librarian in RKSD College, Kaithal and had a very cordial relationship with defendant. The plaintiff besides the aforementioned job, had been dealing with business of property dealing by building houses in Kaithal and had always been in need of money and used to borrow the money from the

father of the defendant. In the year 2006, a sum of Rs.1,50,000/- was outstanding against the plaintiff. Upon demand made by the father of defendant, plaintiff intentionally with an ulterior motive issued two cheques dated 11.01.2006 for an amount of Rs.1.00 lakh ostensibly from the account of his son in the name of father of defendant and other cheque no.075821 for amount of Rs.50,000/- from his account in the name of defendant and executed a memorandum of writing dated 25.4.2008.

Mr. Arun Bansal, learned counsel appearing on behalf of the appellant-plaintiff submitted that both the Courts below have abdicated in non-suiting the plaintiff by not considering that respondent-defendant could not prove the writing, Ex.D1 which was forged and fabricated document. There was no recital with regard to the advancement of the loan by the father of the defendant to the plaintiff in other suit. It was an after thought story, therefore, there was an abdication.

I have heard the learned counsel for the appellant-plaintiff, appraised the judgments and decrees of the Courts below and of the view that there is no force and merit in the submissions of Mr. Bansal, for, plaintiff has miserably failed to prove on record the liability of the defendant as plaintiff in cross-examination admitted that he was busy in construction of the building in Kaithal and regarding the money being taken on loan from the father of the defendant. Defendant has also been able to prove on record the writing Ex.D1 which has not been disputed by the plaintiff as no evidence has been led to belie the signatures.

All these facts have been considered by the Courts below, thus, there is no illegality and perversity in the judgments and decrees of the Courts below, much less no substantial question of law arises for adjudication of the present appeal.

Resultantly, the regular second appeal is dismissed.

(AMIT RAWAL)
JUDGE

May 16, 2019
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No