

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

**RSA No.3456 of 2018 (O&M)
Date of Order: 26.02.2019**

Balwant Singh

..Appellant

Versus

Karam Singh

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Parveen K. Kataria, Advocate,
for the appellant.

ANIL KSHETARPAL, J(Oral)

Plaintiff-appellant is in the regular second appeal against the concurrent findings of fact arrived at by both the courts below partly decreeing the suit for recovery of the amount after adjusting the amount which has been paid through receipt Ex.D1.

Plaintiff in the present case has filed a suit for recovery on the basis of pronote and receipt evidencing loan of Rs.4,56,000/- along with interest @1.50% per month.

Defendant admitted execution of the pronote and receipt because of a loan transaction. However, he pleaded that out of the amount due on 06.10.2012, a sum of Rs.6,70,000/- has been repaid against due amount of Rs.6,74,800/- and a receipt was executed by the plaintiff. However, the pronote and the receipt were not returned on the ground that the complete payment has not been made.

Learned trial court as well as learned first appellate court after appreciation of the evidence have found that the receipt dated 06.10.2012

stands proved and therefore, the plaintiff is only entitled to balance amount.

This court has heard learned counsel for the appellant at length and with his able assistance gone through the judgments and decrees passed by the courts below.

Learned counsel for the appellant has submitted that there is only one marginal witness of the receipt dated 06.10.20012, namely, Balwant Singh son of Harnam Singh who has been examined by the plaintiff and he has stated that the receipt was not executed in his presence and his thumb impressions were obtained when paper was blank. Learned counsel for the appellant has read over the statement of Balwant Singh son of Harnam Singh. He admits his thumb impressions on the receipt as a marginal witness. Of course, he has stated that the thumb impressions were obtained when paper was blank. However, his explanation that the thumb impression was obtained as some electric connection was got to be released by the defendant has not been believed by both the courts below. Plaintiff has also signed the aforesaid receipt, although, being disputed. Both the parties have examined handwriting and finger print expert and the court has found that signatures of the plaintiff on the receipt are proved. Hence, the finding of both the courts below are based upon appreciation of the evidence, which is neither shown to be erroneous nor suffering from any perversity.

Hence, there is no ground to interfere with the concurrent findings of fact arrived at by both the courts below.

The regular second appeal is dismissed.

C.M.No.9162-C of 2018

Prayer in this application is for condonation of delay of 99 days

in filing the appeal.

For reasons mentioned in the application, which is supported by an affidavit, the delay of 99 days in filing the appeal is condoned.

Application is allowed.

February 26, 2019
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(ANIL KSHETARPAL)
JUDGE

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