

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

**RSA No.4104 of 2018 (O&M)
Date of Decision:30.01.2019**

Sudha Devi and another

...Appellant(s)

Versus

Prithi Chand and another

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.K.S.Dadwal, Advocate for the appellants.

ANIL KSHETARPAL, J.

Defendants-appellants are in the regular second appeal against the concurrent findings of fact arrived at by the courts below while decreeing the suit for recovery of Rs.4,00,000/- along with interest @9% per annum from the date of deposit till the date of judgment and thereafter future interest @ 6% per annum.

Avtar Singh, predecessor of defendants, had taken a loan from the State Bank of India. Since he failed to pay the amount, a suit for recovery was filed by the Bank, which was decreed on 31.01.2006. Recovery was ordered along with interest @6% per annum. However, in appeal, the aforesaid judgment qua interest was modified and the bank was held entitled to contractual rate of interest. Appeal against the aforesaid judgment is pending.

The plaintiff, who is brother-in-law of defendant No.1 deposited Rs.4,00,000/- against repayment of the loan in the bank. This is what he wants to recover through the present suit.

Both the courts below on appreciation of evidence have decreed the suit.

Learned counsel for the appellants has submitted that in the appeal, which has been filed against the decree passed in a suit filed by the bank, recovery of 14% interest was stayed and hence, there was no occasion for the brother-in-law to deposit the amount.

It is the case of the plaintiff that since the property was being put to auction, therefore, he deposited the amount as there was a litigation pending with regard to validity of the will in favour of Avtar Singh, husband of defendant No.1-appellant herein. Once the property was threatened to be sold through auction, the plaintiff deposited the amount. Deposit of the amount by the plaintiff has been established and found by both the courts below. Through the application for additional evidence, the defendant-appellant wishes to produce copy of the judgments passed by the learned trial as well as first appellate court in a suit for recovery filed by the bank. Those documents would not advance the case of the defendant-appellant particularly when the finding of the court that the amount was deposited by the plaintiff-respondent is not shown to be erroneous.

In view of the above, there is no ground to interfere in the concurrent findings of fact. The application for additional evidence is also without any substance. Hence, regular second appeal as also application for permission to produce additional evidence are dismissed. Pending application(s), if any, shall also stand disposed of, in terms thereof.

30.01.2019
mks

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No