

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

**RSA No.759 of 2017(O&M)
Date of Decision.21.05.2019**

Kulwant Singh (since deceased) ...Appellant

Vs

Nirmal Singh ..Respondent

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Sumeet Puri, Advocate
for the appellant.

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AMIT RAWAL J. (ORAL)

C.M. No.1650-C of 2017

For the reasons stated in the application, delay of 52 days
in re-filing of the appeal is condoned.

Application is allowed.

C.M. No.1651-C of 2017

For the reasons stated in the application, delay of 108
days in filing of the appeal is condoned.

Application is allowed.

Main Case

The present appeal is directed against the concurrent
finding of fact whereby the appellant-defendant has not been able to
defend the suit for recovery of ₹2 lakhs along with interest @9% per
annum from 4.1.2009 till filing of the suit and future interest @6%
per annum from the date of filing of the suit till realization.

The respondent-plaintiff alleged that Kulwant Singh
(since deceased) now being represented by legal heirs had borrowed
₹2 lakhs by executing a pronote and receipt along with interest @2%

p.m. but he failed to return despite the fact that legal notice dated 4.12.2010 was served, resultantly, suit was filed in 2011.

Defendant did not appear and proceeded ex parte. Thereafter the appellants submitted application for setting aside the ex parte order and bringing on record as legal representatives.

Plaintiff in support of the evidence examined Ravinder Singh as PW1 and himself as PW2 whereas defendant examined as DW1 and closed the evidence.

Learned counsel for the appellants submitted that their father had not taken the loan and there was a business transaction whereby the plaintiff had manipulated the aforementioned document.

I am afraid aforementioned argument would not be sustainable, for, no effort has been made to belie the statement of Ravinder Singh scribe and the evidence of pronote and receipt. In the absence of rebuttal of burden discharged by the plaintiff, decretal of the suit as inevitable.

In view of such circumstances, I do not find any illegality and perversity in the concurrent finding of fact, much less, no substantial question of law arises for determination by this Court. No ground for interference is made out. Resultantly, the second appeal is dismissed.

(AMIT RAWAL)
JUDGE

May 21, 2019
Pankaj*

Whether speaking/reasoned Yes

Whether reportable No