

RSA No. 6137 of 2018 (O&M)

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

RSA No. 6137 of 2018 (O&M)

Date of decision: 03.10.2019

Baldev Singh

... Appellant

Versus

Gurmail Kaur

... Respondent

CORAM: HON'BLE MR. JUSTICE ARUN PALLI, JUDGE

Present: Mr. R.V.S. Chugh, Advocate, for the appellant.

ARUN PALLI, J. (Oral)

Suit filed by the appellant-plaintiff for recovery of Rs. 1,41,750/-, (principal amount Rs.1,05,000/-+Rs. 36,750/- as interest), was decreed by the trial court, vide judgment and decree dated 13.7.2017, but as the appeal preferred by the respondent-defendant against the said decree was accepted and suit was dismissed, on 26.3.2018, the plaintiff is before this Court in Regular Second Appeal. Parties to the lis, hereinafter, shall be referred to by their original positions in the suit.

In brief, the case set out by the plaintiff was that defendant had borrowed a sum of Rs. 1,05,000/- from him on 1.7.2013. At the time of getting the loan amount in cash, defendant had executed a pronote and receipt. Further, for the defendant failed to repay the borrowed amount and did not even pay the interest, as agreed between the parties, thus, the suit.

In defence, the defendant denied the claim of the plaintiff in her written statement. It was pleaded that defendant never obtained a loan of Rs.1,05,000/- from the plaintiff on 1.7.2013. The alleged pronote and

RSA No. 6137 of 2018 (O&M)

receipt were said to be forged and fabricated documents. In fact, the parties happened to the co-villagers and on the pretext of getting her pension, plaintiff obtained her signatures on certain documents, which were subsequently forged as pronote and receipt.

The trial court, upon consideration of the matter, reached a conclusion that defendant actually borrowed a sum of Rs. 1,05,000/- from the plaintiff in the presence of Karamjit Singh and Mangat Ram, and executed the pronote dated 1.7.2013. In fact, Mangat Ram, Advocate, who scribed the pronote, was also examined by the plaintiff in support of his claim. Thus, there was nothing to impeach the credibility of the version of the plaintiff. Accordingly, the suit was decreed.

However, the appellate court, upon due and comprehensive analysis of the matter in issue and the evidence on record, concluded that none other than plaintiff himself (PW1) admitted in his statement that defendant (Gurmail Kaur) was 75 to 80 years old. Her son was aged between 40 to 45 years, and was self employed and owned about 5 acres of land. Defendant, who happened to be a widow, was residing with her son and getting pension. Her expenses were admittedly being borne by her son. Plaintiff (Baldev Singh) also admitted in his statement that he owned only 2 kanals of land and a matrimonial dispute between him and his wife was pending. Further, he was neither into a money lending business, nor, except Gurmail Kaur (defendant), he had lent money to anybody. Family of the defendant was economically better than the plaintiff. The case of the plaintiff was that to meet certain domestic expenses, the defendant obtained a loan from the plaintiff. However, nothing was brought on record to show if a widow and aged about 75 to 80 years living with her son, required loan for

RSA No. 6137 of 2018 (O&M)

any such purpose. Significantly, the plaintiff himself had obtained a loan from certain commission agents and was in debt, and this rather made his version doubtful that he, in turn, lent a sum of Rs. 1,05,000/- to the defendant. The rate of interest at which the loan was allegedly obtained by the defendant was 18%. Concededly, the defendant was an illiterate lady and just because the alleged pronote and receipt carried her thumb impressions would not be sufficient to conclude that she, indeed, executed those documents. For the plaintiff failed to prove that documents (Ex.P1 and Ex.P2) were executed for consideration, plaintiff could not predicate his claim thereupon. That being so, the only and the inevitable conclusion that could be reached: the plaintiff failed to substantiate his claim for lack of evidence.

No ground is made out to interfere with the findings recorded by appellate court. The appeal being devoid of merit, is accordingly dismissed.

(ARUN PALLI)
JUDGE

October 03, 2019

AK Sharma

Whether speaking / reasoned:

YES

Whether Reportable:

YES/NO