

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

**RSA No. 249 of 2020 (O&M)
Date of Decision: 22.01.2020**

Rakesh Kumar

.... Appellant

Versus

Kuldeep Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Dinesh Nagar, Advocate
for the appellant.

ANIL KSHETARPAL, J. (ORAL)

The defendant-appellant is in regular second appeal against concurrent finding of fact arrived by Courts below decreeing the suit for recovery of Rs. 5,57,600/- along with simple interest @ 9% per annum on the principal amount during the pendency of the suit along with future interest on the principal amount @ 6% per annum.

The plaintiff had filed present suit for recovery on the ground that the defendant had taken a loan of Rs. 4,10,000/-. The amount was paid to the defendant after the plaintiff withdrew the amount from the joint account. On demand, the defendant had issued cheque No. 564902 dated 12.01.2009 for the amount of loan which on presentation was dishonored.

The defendant contested the suit and pleaded that he had lost his cheque book and probably his blank cheque had been misused.

Both the Courts on appreciation of evidence found that the plaintiff has successfully proved his case and the defendant has failed to prove that the cheque in question or cheque book was lost. Both the Courts noticed that although complaint filed by the plaintiff under Section 138 of

Negotiable Instruments Act has been dismissed, however, the aforesaid judgment is not binding on the Civil Court, particularly when the complaint was dismissed as statement of account from the bank was not placed on file.

This Court has heard learned counsel for the appellant at length and with his able assistance has gone through the judgment passed by the Courts below. Learned counsel for the appellant although made sincere attempt, however, failed to draw attention of the Court to misreading or non-reading of the evidence. He further failed to point out any illegality in the judgment passed.

In view thereof, the appeal is dismissed.

(ANIL KSHETARPAL)
JUDGE

22.01.2020
Maninder

Whether speaking/reasoned	:	Yes
Whether reportable	:	No