

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

**RSA No.2414 of 2012 (O&M)
Date of Order:17.02.2020**

Chanchal Jandu

..Appellant

Versus

Sucha Singh Flora and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Kartik Gupta, Advocate,
for the appellant.

Mr. Kulwant Singh, Advocate,
for respondent no.1.

ANIL KSHETARPAL, J(Oral)

Plaintiff-appellant has filed the present regular second appeal against the concurrent findings of fact arrived at by the courts below while dismissing the suit for recovery which was filed by the plaintiff to recover Rs.9.28,000/-. It is pleaded case of the plaintiff that an amount of Rs.8,00,000/- was given to the defendant as loan.

Defendants contested the suit while pleading that the husband of the plaintiff was having two wives. The wife who was residing in India, was creating problem and, therefore, husband of the plaintiff requested his relatives, who were settled in UK for help. That is how for settlement of the aforesaid dispute, defendants came to India and Rs.10,00,000/- was transferred in the account of the defendants. There is no document to prove that the amount transferred was a loan by the plaintiff to the defendants.

On appreciation of the evidence, both the courts have concurrently recorded that the plaintiff has failed to prove the loan transactions. Even the counter claim filed by the defendants for the recovery of Rs.2,72,000 has also been dismissed.

Jurisdiction of this court while examining regular second appeal is regulated by Section 41 of the Punjab Courts Act, 1918 which is extracted as under:-

41. Second appeals—(1) *An appeal shall lie to the High Court from every decree passed in appeal by any Court subordinate to the High Court on any of the following grounds, namely :*

(a) the decision being contrary to law or to some custom or usage having the force of law :

(b) the decision having failed to determine some material issue of law or custom or usage having the force of law :

(c) a substantial error or defect in the procedure provided by the Code of Civil Procedure 1908 [V of 1908], or by any other law for the time being in force which may possibly have produced error or defect in the decision of the case upon the merits.”

Keeping in view the aforesaid phraseology used in Section 41 of the Punjab Courts Act, 1918, this court can interfere only, if the attention of this Court is drawn to substantive misreading or non-reading of the evidence. Admittedly as noted above, there is no document to prove that the amount transferred was on account of loan.

Hence, there is no ground to interfere.

Dismissed.

February 17, 2020
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No