

**RSA-1836-2017 (O&M)**

**Serial No. 107  
IN THE HIGH COURT OF PUNJAB & HARYANA AT  
CHANDIGARH**

**RSA-1836-2017 (O&M)  
Date of Decision: 11.02.2020**

JARNAIL SINGH

.... Appellant

Versus

SIKANDER SINGH

... Respondent

**CORAM:- HON'BLE MR. JUSTICE ARUN MONGA**

Present:- Mr.Bhavyadeep Walia, Advocate  
for the appellant.

**ARUN MONGA, J.(ORAL)**  
**CM-4462-C-2017**

For the reasons mentioned in the application, same is allowed  
and delay of 17 days in re-filing the appeal is condoned.

**CM-4463-C-2017**

For the reasons mentioned in the application, same is allowed  
and delay of 172 days in filing the appeal is condoned.

**Main Case**

1. Having suffered the adverse findings by both the Courts below, the defendant herein is in Regular Second Appeal assailing the money decree of Rs.1,50,000/- with interest @ 9% per annum w.e.f. 02.06.2008 till the date of decree passed by the trial Court i.e. 01.08.2013 and, thereafter, @ 6% per annum till the date of actual realization of the decretal amount. The said decree passed by the learned trial Court was upheld by the First Appellate Court by judgment and decree dated 02.04.2016 which is under challenge herein.

2. Succinct factual matrix, as noticed by the courts below, is that

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the defendant-appellant took the loan of Rs.1,50,000/- from the plaintiff-respondent on 02.06.2008 at the interest of 2% per month and executed pronote and receipt in favour of the plaintiff. The pronote was scribed by one Fakir Chand on the asking of the defendant-appellant. The defendant failed to pay the borrowed amount and interest despite notice. On these averments, the plaintiff filed suit for recovery of money with interest. The defendant took the stance that the plaintiff is running the business of money lending without licence. The execution of the pronote and receipt in favour of the plaintiff has been specifically denied. The alleged pronote and receipt are forged and fabricated documents which was the result of conspiracy between the plaintiff and the witnesses.

3. Based on the rival pleadings following issues were framed by the trial Court:

- 1. Whether the defendant took a loan of Rs.1,50,000/- from the plaintiff on 02.06.2008 on interest @ 24% p.a. and executed pronote and receipt in favour of the plaintiff in the presence of the witnesses? OPP*
- 2. Whether the plaintiff is entitled to recover the loan amount along with interest @ 18% per annum as prayed for? OPP*
- 3. Whether the plaintiff is entitled for recovery of Rs.2,25,000/- alongwith interest as prayed for? OPP*
- 4. Whether the plaintiff is an unlicensed money lender and if so its effect? OPD*
- 5. Whether there are material additions and alternations in the pronote and receipt? OPD*
- 6. Relief.*

4. Parties to the suit adduced their respective evidence in support of their pleadings and to discharge the onus of proof as per issues *ibid*.

5. All the issues were decided in favour of the plaintiff and against the defendant by the trial court, after due appreciation of the evidence led by the parties. It noted that the Plaintiff was earlier a

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panchayat member alongwith one Gurjit Singh and the defendant's mother.

Fakir Chand is a commission agent. PW-2 Lal Singh stated that Jarnail Singh executed a pronote and receipt in favour of the plaintiff. Fakir Chand scribed the pronote and receipt in presence of the witnesses. He and Gurjit singh signed the said pronote and receipt as marginal witnesses. Gurjit Singh, another marginal witness also identified his signature on receipt and corroborated the statement of the plaintiff on all the material particulars. DW-1 Fakir Chand stated that he has seen the pronote and receipt which were scribed by him. The trial Court observed that defendant denied that on 02.06.2008, he took Rs.1,50,000/- from the plaintiff. He denied any enmity between him and the plaintiff and marginal witnesses. Counsel on behalf of defendant argued that pronote is forged and fabricated. There was election of sarpanch in the village and mother of the defendant was having a vote in Sarpanch election and due to this political rivalry, the pronote and receipt were forged. It was held by the trial Court that plaintiff has proved the execution of the pronote and receipt by proving the pronote and by examining both the marginal witnesses. As far as the question of political rivalry is concerned, it remained a stray argument having no effect on the document on the file. The trial Court also observed that when the defendant denies the enmity, then the question arises what was the need with the plaintiff to fabricate a false pronote from the defendant and on the basis of false and fabricated pronote to sue the defendant. The plaintiff claimed interest @ 2% per month which is highly excessive. The plaintiff is entitled to recover the loan amount of Rs.1,50,000/- with interest @ 9% per annum from

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realization.

6. In the aforesaid premise, the issues No.1 to 3 were decided against the defendant and in favour of the plaintiff, as regards issue No.4 & 5, the defendant neither adduced any evidence qua the same nor otherwise pressed these issues at the time of arguments before the trial Court. Accordingly, issues No.4 & 5 were decided against the defendant and in favour of the plaintiff by the trial Court.

7. In the first appeal, the Court below held that argument of the defendant with regard to the pronote and receipt was a result of fraud, is without any substance. On perusal of the pronote and receipt, the first Appellate Court held that there was not even a minor addition or alternation in the same. The argument of the defendant to the effect that the pronote and receipt suffered from material additions and alternations was thus rejected. The findings returned by the trial Court on all the issues were held to be correct and accordingly, the judgment rendered by the trial Court was upheld by the First Appellate Court while dismissing the appeal.

8. I have heard the learned counsels for the appellants herein and I am of the view that the present Regular Second Appeal is bereft of any merit and is liable to be dismissed.

9. I have perused the judgments passed by the Courts below which are assailed herein vis-a-vis ground taken in the second appeal and in view of the findings contained in the judgment passed by the trial Court, which have been affirmed by the First Appellate Court. Record shows that appellants own witness, during his cross-examination, conceded that pronote and receipt was executed by the appellant after having received an

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out.

10. There seems no perversity or illegality in the concurrent findings of facts returned by the Courts below on appreciation of evidence.

11. Furthermore, neither any question of law much less substantial question of law, which is *sine qua non* for entertaining second appeal before this Court is involved in present appeal, so as to exercise appellate jurisdiction under Section 41 of the Punjab Courts Act read with Section 100 of Civil Procedure Code.

12. In view of my discussion above and reasons recorded therein, no interference is called for by this Court.

13. Appeal is, accordingly, dismissed.

14. Pending application, if any, shall also stand disposed of.

15. No order as to costs.

**10.02.2020**

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**(ARUN MONGA)  
JUDGE**

Whether speaking/reasoned  
Whether Reportable

Yes/No  
Yes/No