IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No. 4629 of 2018 (O&M)
Date of decision: 21.01.2020.

Gurgaon Gramin Bank now Sarva Haryana Gramin Bank ...... Appellant.

Versus

Hari Dutt @ Hari Ram and others ..... Respondents.

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present:- Mr. Pavan Malik, Advocate, for the appellant.

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ANUPINDER SINGH GREWAL, J. (ORAL)

CMs No. 12320-21-C of 2018

These applications are for condonation of delay of 19 days in filing the appeal and 224 days in re-filing the appeal.

Heard. For the reasons stated in the applications, the same are allowed and the delay of 19 days in filing the appeal and 224 days in re-filing the appeal is condoned.

RSA No. 4629 of 2018 (O&M)

The appellant/plaintiff has challenged the judgment and decree dated 22.03.2017 passed by the First Appellate Court whereby its suit for recovery against the respondents/defendants has been dismissed.

Learned counsel for the appellant/plaintiff contends that the First Appellate Court has erred in relying upon Ex. D1 while holding that the loan had been repaid by the respondents/defendants because this document is forged and fabricated inasmuch as it was not addressed to the respondents/defendants and purportedly addressed to the Tehsildar, who had further referred it to the Patwari and, therefore, the respondents/defendants could not be in possession of the original document. He also contends that particulars including the dates of payment as to when the loan was repaid are not mentioned in this document.

Heard.

The appellant/plaintiff had instituted a suit for recovery of ₹8,80,891/- along with interest @13% per annum since 26.08.2011 till full and final realization of the decretal amount. It was pleaded that respondent/defendant No.1, vide his application dated 11.10.2007, had approached the appellant/plaintiff for sanctioning the loan amount of ₹5,00,000/- for tractor repair, tubewell repair, dairy shed repair and wire fencing. The loan of ₹5,00,000/- was sanctioned and the agreement was executed between the appellant/plaintiff and the respondents/defendants on 11.10.2007. The appellant/plaintiff had released an amount of ₹3,50,000/- on 11.10.2007 while an amount of ₹1,50,000/- was released to respondent/ defendant No.1 on 13.10.2007. It was also pleaded that respondent/defendant No.1 had executed a mortgage deed bearing vasika No. 14172 dated 09.10.2007 in respect of agricultural land measuring 7 kanal 10 marlas. It was also pleaded that respondent/defendant No.1 was to repay the loan amount in yearly instalments of ₹35,714/- plus interest w.e.f. 30.06.2008 along with interest at the rate of 2% per annum above the Reserve Bank of India rate, subject to the minimum of 13% per annum. The suit instituted by the appellant/plaintiff had been decreed by the trial Court by its judgment and decree dated 23.04.2015. The appeal preferred thereagainst by respondent/ defendant No.1 had been allowed by the First Appellate Court vide judgment and decree dated 22.03.2017.

The First Appellate Court had held that the loan amount had been repaid, as a sum of ₹6,22,000/- had been repaid to Shri N.S. Chauhan, Field Officer. This officer is later stated to have expired. The First Appellate Court has relied upon Ex.D1 which bears the signatures of Shri N.S. Chauhan, Field Officer. He had also signed the loan documents and disbursed the loan amount. Respondent/defendant No.1, in his written statement before the trial Court, had specifically pleaded that the loan amount had been repaid and had attached a copy of the letter (Ex.D1). Ex. D1 is on behalf of the Branch Manager, Sultanpur Branch on the letterhead of the appellant/plaintiff. Shri N.S. Chauhan was the Field Officer of the appellant/plaintiff bank at the time when the loan was disbursed and even at the time of repayment of the loan. The appellant/plaintiff did not file any replication to the written statement preferred by respondent/defendant No.1 and it had not been able to lead any cogent evidence to doubt the genuineness of Ex. D1. The appellant/plaintiff had examined Mr. Dilpat Singh, Branch Manager as PW2 who in his affidavit Ex. PW2/A had stated that late Shri N.S. Chauhan, Field Officer, had signed the loan documents, including the agreement and receipt. PW2 Dilpat Singh, in his cross-examination, had admitted the signatures of Shri N.S. Chauhan, Field Officer on Ex. D1. The First Appellate Court has also held that respondent/defendant No.1 is an illiterate farmer and was not supposed to know the technicalities of repayment of loan. Moreover, respondent/defendant No. 1 was about 65 years of age at the time of instituting the suit and would be about 70 years of age at the time of filing the written statement. The appellant/plaintiff did not lead any cogent evidence to suggest that Ex. D1 was a forged document. Therefore, I do not find any illegality in the findings of the First Appellate Court in setting aside the judgment and decree passed by the trial Court.

In the result, this appeal stands dismissed.

(ANUPINDER SINGH GREWAL)
JUDGE

21.01.2020
Ramesh

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No