

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA-5652 of 2019 (O&M)
Date of decision: 21.01.2020

Anil Kumar

... Appellant

versus

Jaspal Singh

... Respondent

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Chetan Kapoor, Advocate,
for the appellant.

ARUN MONGA, J. (ORAL)

1. Defendant herein has preferred the instant regular second appeal aggrieved against the judgment and decree dated 04.12.2017 passed by the trial Court whereby suit for recovery filed by plaintiff has been decreed and upheld by the first Appellate Court vide its judgment and decree dated 06.09.2019.

2. Brief facts as noticed by the Courts below are that plaintiff lent a sum of Rs.4 lakhs to the defendant who executed a receipt and pronote dated 10.07.2014 in presence of the witnesses. When the defendant failed to discharge his debt, the plaintiff served a legal notice dated 23.01.2015 and eventually had to file a suit for recovery thereof.

3. In the written statement defendant denied having borrowed any money from the plaintiff. He further put up a defence that he neither executed any pronote nor any receipt qua the alleged debt. The defendant further submitted that pronote and receipt are forged and fabricated documents prepared by the plaintiff in connivance with one Inderjit Singh

with whom the defendant had some land dispute.

4. Both the Courts below after due appreciation of evidence returned a finding qua execution of pronote and money receipt in favour of the plaintiff and held that plaintiff was able to prove the execution of the same by adducing oral and documentary evidence in support thereof. It was held that on the other hand, defendant failed to establish the defence taken by him in his written statement.

5. I have heard learned counsel for the appellant and have perused the judgments passed by both the Courts below and I am of the opinion that second appeal is bereft of any merit and deserves to be dismissed.

6. The bald plea taken by the defendant that he had never borrowed money from the plaintiff and the plaintiff has in fact committed a fraud upon him by using the blank papers, is not supported by the evidence adduced by him. He failed to lead oral or documentary evidence in support thereof. While on the other hand his signatures on the pronote and receipts were duly proved and even the marginal witness PW2 Avtar Singh deposed on the veracity thereof. That apart, defendant's own witness DW3 Rakesh Kumar, in his cross-examination, admitted that defendant had borrowed money from the plaintiff. It is rather intriguing that defence set up by the defendant is that pronote and receipt have been forged and fabricated by plaintiff in connivance with one Inderjit Singh, when he failed to establish any link between Inderjit Singh and plaintiff, so as to substantiate that it was Inderjit Singh who had handed over any blank documents to the plaintiff which were used to prepare the fabricated pronote and receipt.

7. Another aspect that deserves to be noticed is that there seems no perversity or illegality in the concurrent findings of facts returned by the

Courts below by appreciation of evidence. No interference is called for to disturb the concurrent findings of facts recorded by the Courts below.

8. 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.

9. In view of my discussion above and the reasons recorded therein, this appeal is dismissed being bereft of any merit. Resultantly, both the impugned judgments and decrees passed by learned Courts below are upheld.

10. Pending applications stand disposed of.

11. No order as to costs.

(ARUN MONGA)
JUDGE

January 21, 2020

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Whether speaking/reasoned :

Yes/No

Whether reportable :

Yes/No