

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

**RSA-665-2021 (O&M)
Date of Decision:20.09.2021**

Kamla Devi

....Appellant

VS

Nitin Gupta

....Respondent

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Abhinav Kalia, Advocate
for the appellant

SUDHIR MITTAL, J. (Oral)

The defendant is in second appeal. Suit for price of goods sold along with interest from the date of sale till the date of realization was filed. The same has been decreed. Appeal has also been dismissed.

Learned counsel for the appellant has submitted that the plaintiff-respondent has failed to prove that goods were actually supplied. Bill dated 28.12.2012 Exhibit P-3 and Exhibit P-4 allegedly contain the signature of the husband of the defendant-appellant but the signature has not been proved. Since the plaintiff-respondent has not been able to prove sale of goods, the Courts below were in error in decreeing the suit.

The contention is misconceived. The plaintiff-respondent has examined himself as PW-1 and has examined his accountant as PW-2. Both of them have proved the Bill Exhibit P-3 and Exhibit P-4 apart from cash book Exhibit P-11 and Ledger Exhibit P-7. The cash book and ledger contain entries of the Bill Exhibit P-3 and Exhibit P-4. Apart from that the delivery of the goods at

the house of the defendant-appellant has been proved by Swaran Singh PW-3. Further, the defendant-appellant has admitted that she was constructing her house in the year 2012. The plaintiff-respondent is a dealer of cement and sanitary ware. Cumulative reading of this entire evidence cannot lead to any other conclusion than that reached by the Courts below.

Learned counsel for the appellant has submitted that once the defendant-appellant had denied her husband's signature on the Bill Exhibit P-3 and Exhibit P-4, the onus was upon the plaintiff-respondent to prove that the signature was infact his. No efforts were made by the plaintiff-respondent to examine a handwriting expert and, thus, the judgments and decrees of the Courts below deserve to be set aside.

The aforementioned argument is also misconceived and meritless. Initially, onus to prove his case lies upon the plaintiff-respondent. This onus has been discharged by him through oral as well as documentary evidence. Since, the defendant-appellant has pleaded that signature on Exhibit P-3 and Exhibit P-4 is not of her husband, the onus had shifted upon her to prove the same. She could have examined a handwriting expert to demolish the case of the plaintiff-respondent. Having not done so, she has to suffer the consequences.

For the aforementioned reasons, this appeal has no merit and is dismissed.

(SUDHIR MITTAL)
JUDGE

20.09.2021
Poonam Negi

Whether speaking/reasoned
Whether Reportable :

Yes/No
Yes/No