

RSA-1542-2021 (O&M)

Date of Decision: 20.12.2021

Anand Kumar (since deceased) through his LRs

....Appellant

VS

Rakesh Sharma Gautam

....Respondent

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Namit Gautam, Advocate for the appellant

SUDHIR MITTAL, J. (Oral)

The defendant is in second appeal against concurrent finding of facts recorded by the Courts below. Suit of the plaintiff for recovery of Rs. 30 lacs has been decreed alongwith interest and appeal of the defendant has been rejected.

Learned counsel for the appellant has submitted that there is no evidence on record to show that there was a loan transaction with the plaintiff. Money was due to the defendant from the father-in-law of the plaintiff namely Mam Raj and the Courts below have erred in concluding that a loan had been disbursed to the appellant.

A perusal of the record shows that there is evidence to show that a sum of Rs. 30 lacs was deposited in the account of the defendant-appellant. Thus, the Courts below have held that the plaintiff has discharged the onus of proving that money was advanced by him. Thereafter, onus was shifted upon the defendant-appellant to establish the fact that the money was deposited on account of a transaction with the father-in-law of the plaintiff. Admittedly, there is no evidence in this regard apart from the self serving statement of the defendant-appellant. Thus, no fault can be found with the judgments of the Courts below. The appeal has no merit and is dismissed.

(SUDHIR MITTAL)
JUDGE

20.12.2021

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