

103

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA-1418-2019 (O&M)
Decided on : 15.07.2022

Karamjit Singh

. . . Appellant

Versus

Saroj Rani

. . . Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. R.P. Dhir, Advocate
for the appellant.

MANJARI NEHRU KAUL, J.

Vide judgment and decree dated 02.11.2017, the suit filed by the plaintiff for recovery of Rs.1,13,600/- (Rs.1,04,232/- as principal amount and Rs.9,368/- as interest) as the price of items purchased by the defendant, was decreed. As even the appeal preferred against the said decree failed and was dismissed by the Appellate Court on 19.11.2018, the defendant is in Regular Second Appeal before this Court.

The parties to the *lis* hereafter shall be referred to by their original positions in the suit. The plaintiff being proprietor of M/s Malwa Agriculture Machinery Store, Rampura Phul in her suit alleged that her firm was dealing in the business of Submersible Pump, Switch Gear, Starter, PVC Pipe, Steel Pipe etc. for which, book of accounts were also being maintained in the regular course of business. It was alleged that the defendant had purchased articles, namely, 15 HP Submersible Pump set, 13

pieces PVC Pipe 9", 320 cable wire, 4x4 assembly one piece, one piece 4x4 plait clump, 9x4 Tava, 1½ litres solution, 70 pieces rapat, 3 pieces Zen, started components worth Rs.1,54,232/- on 08.03.2014 on credit basis. The defendant, at the time of the purchase, had paid Rs.50,000/- in cash to the plaintiff and there was an outstanding sum of Rs.1,04,232/- standing against the name of the defendant. A writing to the above fact was also made on the letter pad of the plaintiff's firm which had been scribed by the plaintiff's son. The original of the same had been handed over to the defendant at the time of the purchase while the carbon copy stood retained by the plaintiff. The defendant had also thumb marked another bill on the letter pad of the plaintiff firm and promised to pay the remaining sum within 1½ months at the interest of 1% per month. However, the defendant despite being repeatedly requested, failed to make payment of the remaining amount, the plaintiff was left with no other option but to institute the suit in question.

The defendant, while filing his written statement, denied the purchase of any item from the plaintiff firm on the alleged date and rather alleged that the suit in question had been filed by the plaintiff on the basis of forged and fabricated documents. It was also alleged by the defendant that the plaintiff had neither formed the alleged firm nor was she the owner of the same. Still further, it was disputed by the defendant that the plaintiff had been maintaining any account book, on the basis of which, she had claimed recovery of the suit amount. The plaintiff, in her replication, controverted the submissions made in the written statement by the defendant and reiterated her pleaded case.

During the trial, the defendant, who appeared as DW-1,

admitted to the purchase of articles from the plaintiff firm and also the payment of Rs.50,000/- in cash to the plaintiff. Still further, it was admitted that remaining amount of Rs.1,04,232/- was to be paid to the plaintiff after sometime. The defendant, however, denied having thumb marked the alleged bill (Exhibit P-2) and alleged that it was a forged and fabricated document. Besides this, the defendant denied that the delivery of the purchased items from the plaintiff firm were made to him, rather he pleaded that the delivery was made to one Jagsir Singh. Both the Courts below rightly rejected the submissions of the defendant by observing that in support of their contentions that the alleged bill (Exhibit P-2) was a forged and fabricated document, the best witness in the circumstances would have been some handwriting or fingerprints expert. However, the defendant had not led any evidence in the said regard and as such, an adverse inference was liable to be drawn against him. His second submission qua the purchased articles having been given to Jagsir Singh and not him, too were rightly rejected by the Courts below as this stand taken by the defendant was beyond his pleadings.

Learned counsel appearing for the appellant-defendant has reiterated the submissions made by the defendant before the Courts below, which as already pointed out above, have been rightly rejected vide impugned judgment and decree. Learned counsel on being pointedly asked was unable to refer to anything on record to show that the conclusions arrived at by the Courts below were either contrary to the record or suffered from any material illegality.

No ground is thus made out to interfere with the concurrent

findings recorded by both the Courts below. The appeal being devoid of any merit, is hereby dismissed.

Pending application/s, if any, shall also stand disposed of.

(MANJARI NEHRU KAUL)
JUDGE

July 15, 2022
gurpreet

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