

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

105

RSA-1595-2021(O&M)
Date of decision:10.02.2022

Smt. Sushila

...Appellant

Versus

Karan Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Karanvir Singh Khehar, Advocate, for the appellant.
Mr. Vivek Khatri, Advocate, for the caveator/respondent.

ANIL KSHETARPAL, J (Oral)

The hearing of the case is being held through video conferencing on account of restricted functioning of the Courts.

The defendant in a suit for recovery of Rs.21,18,750/- is the appellant herein. She assails the concurrent findings of fact arrived at by the courts below while decreeing the suit for recovery of Rs.15,00,000/- (the principal amount along with interest @ 9% per annum from the date of advancement (26.05.2007 till the date of judgment of the trial court).

The plaintiff (respondent herein) filed a suit claiming that he had advanced a friendly loan of Rs.15,00,000/- to the defendant and her husband, by the way of demand draft dated 26.05.2007. The amount was liable to be returned along with interest @ 15% per annum.

The defendant contested the suit with the assertions that there was no loan and, in fact, the defendant and her husband were to purchase a property for which Rs.30,00,000/- was required to be paid to their vendor. Hence, Rs.15,00,000/- in cash was given to the plaintiff to deposit in his account and thereafter the plaintiff returned the amount by way of demand

draft.

The defendant in order to prove their assertions examined herself as DW1, Dhruvpal as DW2, Ved Pal as DW3 and Hanuman Singh as DW4. The sale deed dated 04.05.2007 Ex.D1 was also produced.

The plaintiff also produced his own bank account statement to prove that the assertion of the defendant is factually incorrect and there is no entry of Rs.15,00,000/- as alleged by the defendant.

As already noticed, both the courts have decreed the suit.

The learned counsel representing the appellant while drawing the attention of the court to the assertions made in para 3 of the plaint and the corresponding stand of the defendant contend that in the absence of document in writing the courts have erred in decreeing the suit.

He while referring to the statement of Dhruvpal has submitted that the amount of Rs.15,00,000/- was deposited by the plaintiff in his own account in the presence of Dhruvpal.

This court has considered the submissions.

The defendant has failed to prove that she or her husband handed over Rs.15,00,000/- to the plaintiff and the aforesaid amount was deposited by the plaintiff in his own account. The defendant has failed to produce counter file of the same. Furthermore, the defendant has failed to prove that there was a deposit of Rs.15,00,000/- by her or her husband in the account of the plaintiff. On careful reading of the statement of Dhruvpal, it is evident that he has made a bald assertion without corroborating the same with the documentary evidence.

The scope of interference in the regular second appeal is limited. The learned counsel representing the appellant, although, made

sincere attempt, however, has failed to put forth any convincing argument.

Hence, no ground to interfere in the concurrent findings of fact arrived at by the Court below, is made out.

Dismissed.

All the pending miscellaneous applications, if any, are also disposed of.

February 10, 2022
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(ANIL KSHETARPAL)
JUDGE

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