IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.4801 of 2019 (O&M)
Date of decision : 18th October, 2022

Joginder Singh

… Appellant

Versus

Ranbir Singh

… Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Gulshan Nandwani, Advocate for the appellant.

MANJARI NEHRU KAUL, J.

Suit for recovery filed by the respondent Ranbir Singh was decreed by the learned trial Court vide judgment and decree dated 11.10.2018 and the aforesaid findings were affirmed by the learned lower appellate Court by way of judgment and decree dated 09.10.2019. The defendant Joginder Singh has now come up before this Court in the instant Regular Second Appeal challenging the concurrent findings recorded by both the Courts below. The parties to the *lis* hereinafter shall be referred to by their original position in the suit.

The pleaded case of the plaintiff may be notice as thus:-

On 11.04.2015, the defendant who was a friend of the plaintiff approached him for financial assistance. The plaintiff extended a friendly loan in the sum of ₹ 2,20,000/- vide Cheque No.082934 dated 11.04.2015 to the defendant, which was then encashed by the latter on 13.04.2015. The defendant agreed to pay interest on the borrowed amount at the rate of 24% p.a. and also assured that the loan amount would be returned to the plaintiff on or before 31.03.2016. The defendant however, failed to return the borrowed amount to the plaintiff and as a result, the amount payable by the defendant to the plaintiff on 26.05.2015 came to ₹ 2,79,400/- including interest. The plaintiff also sent a legal notice to the defendant on 06.05.2016. The defendant, though, did reply to the said notice on 17.05.2016, however he stated therein that it was in fact the plaintiff who had borrowed a sum of ₹ 2,20,000/- from him and the said borrowed amount was returned by the plaintiff to the defendant through aforementioned Cheque No.082934 dated 11.04.2015. Plaintiff repeatedly requested the defendant to return the borrowed amount, however it yielded no result and hence the plaintiff was left with no other option but to institute the suit in question.

In his written statement, the defendant denied having taken the loan in question from the plaintiff. He averred that rather it was the plaintiff who had borrowed an amount of ₹ 2,20,000/- from the defendant on 28.11.2014 in the presence of two witnesses Amrit Singh and Himmat Singh and the same was returned by the plaintiff to the defendant through Cheque No.082934 dated 11.04.2015. It was also averred that the defendant had sufficient funds in his bank account with the State Bank of India and hence the question of him asking the plaintiff for any loan, much less for an amount of ₹ 2,20,000/- did not arise and that too at such a high rate of interest i.e. 24% p.a.

In the replication filed, the plaintiff controverted the submissions made by the defendant and reasserted his claim made in his plaint.

On the basis of material and other evidence led, both the Courts below returned concurrent findings in favour of plaintiff, and rejected the submissions of the defendant that the plaintiff had borrowed an amount of ₹2,20,000/- from him on 28.11.2014. The Courts below held that the onus was on the defendant to prove the transaction dated 28.11.2014, however, no documentary evidence had been placed on record by the defendant with respect to the loan of ₹2,20,000/- advanced to the plaintiff on 28.11.2014.

I have heard learned counsel for the appellant and perused the relevant material on record.

Learned counsel for the appellant has reiterated his submissions and stand taken before the Courts below. This Court does not find any error in the concurrent findings recorded by the Courts below. The Courts below have rightly observed that in the reply Ex.DW1/1 sent by the defendant in response to the legal notice issued by the plaintiff, there was no mention of Himmat Singh and Amrit Singh witnessing the advancement of loan by the defendant to the plaintiff. Furthermore, it has been submitted by the defendant while stepping into the witness box that the transaction between the plaintiff and the defendant on 28.11.2014 was in cash and hence, it cannot be easily digested that the plaintiff would have returned the loan amount of ₹ 2,20,000/- by way of a Cheque. Still further, learned Courts below rightly rejected the submission of defendant having advanced loan of ₹2,20,000/- in cash, especially in light of Section 269SS of the Income Tax Act, 1961 which prohibits loan transactions over ₹ 20,000/- in cash. Still further, no evidence has been led by the defendant to prove the factum of the alleged transaction or show the source from where he had withdrawn a huge amount of ₹2,20,000/- on 28.11.2014 and then lent it to the plaintiff.

The appellant has thus, failed to show the any infirmity much less perversity in the findings of the Courts below. Accordingly, the appeal is dismissed.

(MANJARI NEHRU KAUL)
JUDGE

October 18, 2022
rps

Whether speaking/reasoned Yes/No

Whether reportable Yes/No