

[342] IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No.2206 of 1991

Date of Decision : 16.02.2023

Anil Kumar

...Appellant

versus

Ved Parkash Vadera

....Respondent

Coram : Hon'ble Mr. Justice B.S. Walia

Present : None for the appellant.

Mr. Naven Kumar, Advocate for Mr. K.L. Arora, Advocate
for the respondent.

B.S. Walia, J. (Oral)

[1] The instant Regular Second Appeal has been filed against the judgment and decree dated 08.03.1990, setting aside the judgment and decree passed by the learned trial Court and dismissing the suit filed by the appellant-plaintiff, as also against order dated 13.12.1990 passed by the learned District Judge, Ambala, dismissing the application filed for recalling judgment and decree dated 08.03.1990.

[2] A perusal of the judgment and decree dated 13.05.1988 passed by the learned Senior Sub Judge, Ambala, reveals that the suit for recovery of Rs.10,000/- filed by the appellant-plaintiff on the basis of pronote and receipt dated 17.12.1982 was decreed with costs for recovery of Rs.10,000/- along with future interest @ 6% per annum from the date of institution of the suit i.e. 24.02.1983 till realization of the decretal amount. However, appeal filed by the respondent-defendant was accepted by the learned District Court, Ambala vide judgment and decree dated 08.03.1990 by holding that the pronote and receipt were not executed in

changed his version about the development leading to alleged advancement of Rs.10,000/- by him to respondent-defendant/Ved Parkash, whereas, the respondent-defendant has sufficiently discharged the burden of proving that the pronote and receipts were not for consideration. Accordingly, findings of the learned trial Court on Issue No.2 that the pronote and receipt in question were for consideration was set aside and the appeal was accepted. Judgment and decree passed by the learned trial Court were set aside and the suit of the plaintiff was dismissed with costs throughout.

[3] Before the Hon'ble Daily Lok Adalat, learned counsel appearing on behalf of the appellant had contended that despite best efforts, the appellant could not be contacted so much so that the letters sent to the appellant by learned counsel had also been received back undelivered. Accordingly, vide order dated 01.04.2016, Hon'ble the Daily Lok Adalat was pleased to send the matter back to the High Court for necessary orders.

[4] On 07.02.2023, none appeared for the appellant whereupon, the matter was adjourned for today. However, today again none has put in appearance on behalf of the appellant and in view of the position noted above, the appeal is *dismissed for non prosecution*, while granting liberty to the appellant to move an application for restoration of the appeal, in case, cause survives.

(B.S. Walia)
Judge

16.02.2023

'Rajneesh'

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