

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

RSA-1315-2021(O&M)

Reserved on:-17.4.2023

Date of pronouncement:-19.4.2023

Meenakshi Singla and another

...Appellants

Versus

Ajay Kansal

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Ajeet Pal Singh Pakka, Advocate
for the appellants.

Mr.B.S. Bhalla, Advocate
for the respondent.

H.S. MADAAN, J.

1. In nutshell, the facts of the case are that plaintiff Ajay Kansal had brought a suit for recovery of Rs.6,60,000/- i.e. Rs.6,00,000/- as principal amount and Rs.60,000/- as interest thereon against Meenakshi Singla – widow and Sahil Singla – minor son of Naresh Kumar son of Babu Ram, owners of M/s Naresh Beej Bhandar, Neharu Mandi Road, Baghapurana, District Moga, on the averments that Naresh Kumar predecessor-in-interest of the defendants was sole proprietor of the concern M/s Naresh Beej Bhandar and after his death both the defendants have inherited the said business; Naresh Kumar deceased was related to plaintiff

through his wife side and on account of cordial relations, he used to borrow money from the plaintiff from time to time and return the same along with interest; on 12.6.2014 Naresh Kumar had borrowed an amount of Rs.6,00,000/- from the plaintiff, which was advanced to him vide a banker cheque issued by the plaintiff in the name of firm M/s Naresh Beej Bhandar and an entry in that regard is there in the statement of account of the plaintiff; Naresh Kumar executed an affidavit dated 11.6.2014 in favour of the plaintiff with regard to the loan promising to pay back the said amount within a period of seven months; unfortunately Naresh Kumar died on 2.6.2015 without returning the borrowed amount to the plaintiff or interest payable thereon.

According to the plaintiff, he approached the defendants several times requesting them to return the loan amount with interest but to no effect, giving rise to a cause of action to the plaintiff to bring the suit.

2. On notice, the defendants appeared and filed a written statement contesting the suit raising various legal objections, on merits denying that Naresh Kumar had borrowed any amount from the plaintiff or executed any affidavit dated 11.6.2014. According to the defendants, they have not inherited anything from Naresh Kumar since Naresh Kumar was not owning any property at the time of death and the business being run under the name and style of M/s

Naresh Beej Bhandar had been closed by Naresh Kumar during his life time since he was unable to do the business on account of his illness. Defendants denied any liability to pay any amount to the plaintiff contending that the alleged affidavit set up by the plaintiff is a forged and fabricated document. In the end, the defendants prayed for dismissal of the suit.

3. On the pleadings of the parties, following issues were framed:

1. Whether the plaintiff is entitled to the relief of recovery as prayed for? OPP.
2. Whether the suit of the plaintiff is not maintainable? OPD.
3. Whether the plaintiff has no locus standi to file the present suit? OPD.
4. Relief.

4. Both the parties were afforded adequate opportunities to lead their evidence in support of their respective claims.

5. After hearing the learned counsel for the parties, the trial Court of Civil Judge(Jr.Divn.), Moga by giving issue-wise findings dismissed the suit of the plaintiff vide judgment and decree dated 12.4.2017.

6. Feeling aggrieved by the said judgment and decree, the plaintiff had filed an appeal in District Court at Moga, which was accepted by learned District Judge, Moga vide judgment and decree

dated 6.8.2021, resultantly the judgment and decree passed by the trial Court were set aside and suit of the plaintiff was decreed with costs for recovery of Rs.6 lakhs/- as principal amount with interest to the tune of Rs.60,000/- along with pendente lite and future interest @ 6% per annum.

7. Being dissatisfied with the judgment and decree passed by the District Judge, Moga, the defendants have filed the present regular second appeal before this Court, notice of which was issued to the respondent/plaintiff, who has put in appearance through counsel.

8. I have heard learned counsel for the parties besides going through the record and I find that there is absolutely no merit in the present appeal.

9. Learned District Judge, Moga referring to certified copy of statement of account of the plaintiff Ex.P6 had observed that, that statement goes to prove that Naresh Kumar deceased had received a sum of Rs.6 lakhs from the plaintiff vide cheque in the name of his firm, which fact is corroborated by affidavit Ex.P2. Furthermore, it has been observed that DW1 Meenakshi Singla wife of Naresh Kumar deceased in her cross-examination had admitted the bank transaction and other averments of the plaintiff. Learned District Judge referring to the evidence has rightly concluded that firm M/s Naresh Beej Bhandar was functioning during life time of Naresh

Kumar and after his death, the business is being run by the defendants. In the affidavit of Naresh Kumar Ex.P2, he had admitted having raised a loan of Rs.6 lakhs from the plaintiff Ajay Kansal stating that he would return the same within 7 months. Learned District Judge, Moga has further observed that even if the affidavit is not taken into consideration, from the statement of bank account of the plaintiff Ex.P6 showing that an amount of Rs.6 lakhs had been debited from the account of plaintiff, as a result of issuance of cheque for that amount in favour of M/s Naresh Beej Bhandar as well as admission made by Meenakshi Singla in her cross-examination, the case of the plaintiff stood proved. The version of the plaintiff was found to be much more plausible and convincing than that of defendants, which was considered and rightly rejected. The defendants having inherited the estate of deceased Naresh Kumar are to discharge his liabilities also. Learned District Judge, Moga was justified in reversing the judgment and decree passed by the trial Court dismissing the suit of the plaintiff, since the same were result of wrong analysis of evidence and erroneous interpretation of law, which could not be legally sustained.

10. No reason is found to differ with such observations made by the First Appellate Court and to take a contrary view in light of the facts and circumstances of the case.

11. No substantial question of law or fact arises in this

appeal.

12. Therefore, I do not find any merit in the present appeal and do not see any reason to disturb the legal, valid and well reasoned judgment passed by the District Judge, Moga.

13. The appeal stands dismissed accordingly.

Since the main appeal stands dismissed, the miscellaneous application(s), if any, stand disposed of accordingly.

19.4.2023

Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking: Yes/No

Whether reportable : Yes/No