

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

219

RSA-4379-2016 (O&M)
Date of Decision: 26.04.2023

Shinder Kaur and others

...Appellants

Versus

Mohan Lal

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: None for the appellants.

ARUN MONGA, J. (Oral)

For convenience, parties herein are addressed as per the recitals before learned trial Court.

2. Having suffered concurrent adverse findings by the two Courts below, defendants are in second appeal before this Court assailing learned trial Court judgment and decree dated 30.11.2015, as upheld by learned First Appellate Court vide its judgment and decree dated 25.05.2016, decreeing the suit filed by respondent/plaintiff with costs for recovery of Rs.70,000/- with interest @ 9% per annum from 02.11.2011 till date of judgment and future interest @ 6% per annum till realization of entire amount.

3. While issuing notice of motion, following order was passed by this Court on 13.09.2018:

“A suit for recovery of Rs.76,300/- filed by the plaintiff was decreed by the trial court on 30.11.2015. Defendant’s appeal has been dismissed vide judgment dated 25.05.2016 passed by the learned District Judge, Barnala and thereby affirming the judgment and decree passed by the trial Court. Resultantly, the defendant/appellants are in second appeal before this Court.”

Counsel would inter alia contend that the judgment passed by the trial Court suffers from a misreading and mis-appreciation of evidence. To substantiate such assertion, counsel has adverted to the document adduced on record as Ex. DA which was in the nature of a statement recorded of the plaintiff/respondent before the Court in proceedings initiated by the plaintiff/respondent before the Court in proceedings initiated by the plaintiff under Section 138 of the Negotiable Instruments Act and such statement was to the effect that a compromise has been effected and he has received the entire amount and he would also withdraw the civil suits that had been instituted for recovery against the accused.

Notice of motion, returnable for 07.03.2019.”

4. Perusal of the above reveals that appeal was filed in the year 2016. No stay was granted on the money decree. The appeal is pending for the past 7 years and in all likelihood is rendered infructuous as the decretal amount would have been recovered by respondent/plaintiff from appellant/defendants by filing execution proceedings or otherwise.

5. Be that as it may, the appeal is dismissed in default.

6. Pending application, if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

26.04.2023
Harish Kumar

Whether speaking/reasoned : Yes/ No

Whether Reportable : Yes/ No