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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-1021-1993 (O&M)
Date of Decision : 03.04.2024

Harnek SinghAppellant

Versus

Gurjit SinghRespondent

CORAM: HON’BLE MR. JUSTICE PANKAJ JAIN

Present:- Mr. Anil Rathee, Advocate
for the appellant.

Mr. Ranjit Saini, Advocate
for the respondent.

PANKAJ JAIN, J. (ORAL)

Plaintiff is in appeal. For convenience, the parties are being referred to by their original position in the suit i.e. the appellant as plaintiff and the respondent as defendant.

2. Plaintiff filed a suit for recovery of Rs.2992/- on the ground that defendant borrowed a sum of Rs.2200/- from him @ 1% interest per month. Pronote and receipt were lost from the plaintiff and report regarding the same was made in Police Station Malerkotla on 06.12.1989. Defendant had not made the payment of any amount either from principal or from interest despite the fact that pronote and receipt were shown to him.

2.1. In the written statement, defendant admitted having borrowed Rs.2200/- from the plaintiff through pronote and receipt in question. However, plea of defendant was that he had paid the entire loan amount along with interest to the plaintiff on 13.12.1986 and plaintiff had returned the pronote and receipt, which were torn off.

2.2. Based on the rival pleadings, following issues were framed by the Trial Court:-

1. Whether the defendant repaid Rs.2200/- to the plaintiff along with interest?OPP
2. Whether the pronote and receipt in question have been lost from the plaintiff? If so, its effect?OPP.
3. Whether the suit is not maintainable in the present form? OPD.
4. Relief.

2.3. The parties to the suit adduced oral as well as documentary evidence in support of their pleadings and to discharge their respective onus as per the issues, *ibid*.

2.4. On appraisal of evidence vis-à-vis pleadings, the Trial Court decided all issues in favour of plaintiff and allowed the suit holding that since defendant failed to prove that he had made any payment and that pronote and receipt in question had been lost, the plaintiff was entitled to recover the said amount.

3. Aggrieved, defendant preferred first appeal, which stands allowed by Additional District Judge, Sangrur reversing the findings of Trial Court holding that in the absence of pronote and receipt the plaintiff had no

right to recover the amount on the basis of filing DDR reporting that documents were lost.

4. At the outset, counsel for defendant/respondent has argued that the present appeal is not maintainable in view of the law laid down by Supreme Court in *Nagarpalika Thakurdwara vs. Khalil Ahmed and others, 2016(4) R.C.R. (Civil) 615*, as per which once the recovery of money not exceeding Rs.25000/- in the original suit, no second appeal would lie and Section 102 C.P.C. would apply in such cases. Further the Supreme Court held that the purpose behind enactment of Section 102 C.P.C. is to reduce the quantum of litigation so that courts may not have to waste time where the stakes are very meager and not to much consequence.
5. Counsel for the plaintiff/appellant has not been able to cite any contrary judgment.
6. Resultantly, the present appeal is dismissed without any costs.
7. Pending application(s), if any, shall also stand disposed off.

(PANKAJ JAIN)
JUDGE

April 03, 2024
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No