

2024:PHHC:050775
109 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
RSA-2901-1994 (O&M)
Date of decision: 15.04.2024

Daljit Singh and others

....Appellants

Versus

M/s Ralla Ram Banarsi Dass

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Vikas Singh, Advocate for the appellants

ANIL KSHETARPAL, J (Oral)

1. This is the defendants' Regular Second Appeal against the judgment passed by the First Appellate Court, which in turn has reversed the judgment and decree passed by the trial court while decreeing the plaintiff's suit for recovery of Rs.1,16,262.35 alongwith interest at the rate of 6% per annum on the principal amount of Rs.74,838.50 from the date of suit till its realization.

2. In order to comprehend the issues involved in the present case, some relevant facts, in brief, are required to be noticed.

3. The plaintiff is a commission agent whereas the defendants are farmers who used to sale their produce through the plaintiff and borrow amount from time to time. On 20.05.1986, the plaintiff-firm filed a suit claiming that the defendants have failed to pay the principal amount of Rs.74,838.50 alongwith interest. Defendant no.1 contested the suit and claimed that he had not taken any loan. He has sold crops for value more than the amount claimed in the suit, however, the plaintiff-firm has not paid the amount. The trial court dismissed the suit

on the ground that the plaintiff has failed to prove that the account books were maintained in regular course of business. However, the First Appellate Court upon re-appreciation of evidence decreed the suit.

4. Heard the learned counsel representing the parties at length and with their able assistance perused the paperbook alongwith the scanned copy of the lower court record.

5. Learned counsel representing the appellants submits that J Form dated 10.5.1983 and 06.05.1984 produced by the defendants have not been accounted for. Hence, the judgment passed by the First Appellate Court is not sustainable. From a perusal of the judgment passed by the First Appellate Court, it is evident that the plaintiff failed to prove the aforesaid J Form. It has come in evidence that on 31.05.1983 the defendant no.1 borrowed Rs.1,16,000/- by way of two different entries of Rs.84,000/- and Rs.32,000/-. Each and every entry made in the account books evidencing borrowing the amount is signed by defendant no.1 but of course he denies the same. However, his signatures have been proved with the help of handwriting and finger print expert.

6. Keeping in view the aforesaid facts, no ground to interfere is made out.

7. Hence, dismissed.

8. All the pending miscellaneous applications, if any, are also disposed of.

15.04.2024

rekha

Whether speaking/reasoned :
Whether reportable :

(ANIL KSHETARPAL)

JUDGE

Yes/No
Yes/No