

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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RSA-1440-1997 (O&M)

Date of Decision: 29.01.2024

Sant Lal

.... Appellant

Versus

Shri Puran

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Arun Kumar Singal, Advocate for the appellant.

Mr. Pritam Saini, Advocate for the respondent.

NIDHI GUPTA, J. (ORAL)

1. After remaining unsuccessful before both the Courts below, plaintiff/appellant herein, has filed the instant Regular Second Appeal, against the judgment and decree of Ist Appellate Court dated 02.12.1996, affirming the judgment and decree of the trial Court dated 29.01.1994, whereby the '*suit for recovery of Rs.5000 and for rendition of accounts*', filed by the plaintiff/appellant herein, was dismissed.

2. Admittedly, the defendant-respondent herein had mortgaged his land measuring 5 kanals 1 marla comprised in Khewat No. 76/108, Rect. No. 23, Killa No. 22 situated at village Siwah Kheri, in favour of the plaintiff/appellant for a consideration of Rs.5000/- vide mortgage deed dated 26.12.1978 (Ex. P-1). Both the Courts below vide judgments

impugned herein have recorded concurrent findings against the plaintiff/appellant and held that the suit of the plaintiff/appellant for recovery of Rs.5000/- was not maintainable. It was further held that plaintiff/appellant cannot claim rendition of accounts from the defendant, therefore, his suit for rendition of accounts was also not maintainable.

3. Without adverting to the matter on merits, perusal of the record shows that the plaintiff/appellant had filed the suit for recovery of Rs.5000/- only. In these facts and circumstances, reference can be made to the judgment of the Hon'ble Supreme Court in ***Nagarpalika Thakurdwara vs. Khalil Ahmed and others***, ***Law Finder Doc ID # 793552***, wherein it has been held that '*no second appeal would lie from any decree when the subject matter of the original suit is for recovery of money not exceeding Rs.25,000/-. The purpose behind enactment of Section 102 CPC is to reduce quantum of litigation so that Courts may not have to waste time where the stakes are very meagre and not to much consequence*'.

4. Para 15 of the aforesaid judgment is also relevant, which reads as under:-

"15. So as to avail advantage of the provisions of Section 102 of the CPC, the subject matter of the original suit should be only recovery of money and that too, not exceeding Rs. 25,000/-. If the subject matter of the suit is anything other than recovery of money or something more than recovery of money, provisions of Section 102 of the CPC cannot be invoked".

5. Learned counsel for the appellant is unable to controvert this clear position in law. Accordingly, the present second appeal is not maintainable, and the same is hereby **dismissed**.
6. Pending application(s), if any, also stand disposed of.

29.01.2024
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(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No