In the High Court of Punjab and Haryana at Chandigarh

RSA No.4099 of 2019(O&M)
Date of decision:01.08.2024

Ramesh Kumar .....Appellant

Versus

Amandeep Singh ....Respondent

CORAM: HON'BLE MRS. JUSTICE RITU TAGORE

Present: Mr. P.K.S. Phoolka, Advocate for the appellant.

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RITU TAGORE, J.

1. Being aggrieved by the concurrent findings returned against him, appellant-plaintiff has preferred this regular second appeal against the impugned judgment and decree dated 25.03.2019, passed by learned District Judge, Bathinda, affirming and upholding the judgment and decree dated 17.08.2016, passed by learned Civil Judge (Junior Division), Talwandi Sabo.

2. For easy reference, parties shall be referred to as per their status before the learned trial Court.

3. In substance, the plaintiff filed a suit for the recovery of ₹1,15,000/-, based on averments that, on 14.09.2012 defendant Amandeep Singh, borrowed a sum of ₹67,400/- from the plaintiff- firm in the presence of the witnesses and agreed to repay the same on demand along with interest at the rate of 2% per month. In consideration of the said loan amount, defendant also executed a pronote (Ex P-1) and a receipt(Ex P-2) in favour of the plaintiff, and contents of the pronote(Ex P-1) and receipt (Ex P-2)

were read over and explained to the defendant, who appended his signatures in token of its correctness and acceptance on these documents, in the presence of the witnesses. The plaintiff alleged that defendant, failed to repay anything either towards the principal or interest accrued thereon, despite repeated demands made by the plaintiff, necessitating him to file the suit.

4. Upon being put to notice by the learned trial Court, defendant appeared and while contesting the suit asserted that plaintiff has no *locus-standi* or cause of action to file the suit. Further, suit is not maintainable in the present form and the plaintiff has concealed the true and material facts from the Court regarding his running the business of money lending without holding any legal and valid license for the same. The defendant denied all the allegations and assertions put-forth by the plaintiff in the plaint and on these assertions, made a prayer for the dismissal of the suit.

5. Since the parties were at variance, the following issues were framed by the learned trial Court on 5.11.2015:-

1. Whether the plaintiff is entitled for recovery of Rs.1,15,000/-, as prayed for ?OPP
2. Whether the suit of the plaintiff is not maintainable in the present form?OPD
3. Whether the plaintiff has no locus-standi or cause of action to file the present suit ?OPD
4. Whether the plaintiff has concealed material facts from the Court ? OPD
5. Whether the plaintiff is running the business of money lending without any valid license ?OPD
6. Relief

6. In support of their version and counter version, parties led evidence as detailed in the judgment of learned Courts below.

7. On appraisal of the evidence, learned Trial Court determined that the plaintiff was in business of money lending and was not an authorized money lender. He had no license issued in his name as per Section 3 of the Punjab Registration of Money Lenders Act, 1938 (hereinafter to be referred as 'the Act') Act, to run the business of money lending, therefore he is not entitled to recover the amount. The learned first Appellate Court re-appreciated evidence and affirmed the findings of the learned lower Court and dismissed the appeal.

8. Being aggrieved by the judgment of learned First Appellate Court the appellant has preferred the instant appeal.

9. I have heard the learned counsel for the appellant and have gone through the record with his valuable assistance and find no ground to interfere in the findings recorded by the learned Courts below, for the reasons as recorded.

10. Plaintiff, instituted the suit for recovery of ₹1,15,000/- against the defendant, based on a pronote (Ex.P1) and receipt (Ex.P2) dated 14.09.2012, asserting that defendant borrowed ₹67,400/- in cash from him, while promising to repay the same along with interest at the rate of 2% per month; and in presence of the witnesses executed a pronote and a receipt in his favour, in token of its acceptance and correctness. On the other hand, defendant denied the execution of the documents. Learned Courts below, non-suited the plaintiff on the maintainability of the suit being barred by Section 3 of the Act.

11. Here it would be profitable to go through the provisions of Section 3 of the Act:

> "3. *Notwithstanding anything contained in any other enactment for the time being in force, a suit by a money-lender for the recovery of a loan, or an application by a money- lender for the execution of a decree relating to a loan, shall, after the commencement of this Act, be dismissed, unless the money-lender-*
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> *(a) at the time of the institution of the suit or presentation of the application for execution; or*
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> *(b) at the time of decreeing the suit or deciding the application for execution-*
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> *(i) is registered; and*
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> *(ii) holds a valid licence, in such form and manner as may be prescribed; or*
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> *(iii) holds a certificate from a Commissioner granted under Section 11, specifying the loan in respect of which the suit is instituted, or the decree in respect of which the application for execution is presented; or*
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> *(iv) if he is not already a registered and licensed money-lender, satisfies the Court that he has applied to the Collector to be registered and licensed and that such application is pending; provided that in such a case, the suit or application shall not be finally disposed of until the application of the money-lender for registration and*

grant of licence pending before the Collector is finally disposed of.

12. The perusal of the above provisions clearly contemplates that a suit by money lender for recovery of a loan or an application by a money lender for the execution of a decree relating to a loan, shall not be maintainable unless the money lender is registered under the Act and holds a valid licence, at the time of filing of the suit.

13. The plaintiff as PW-2 during his cross- examination, pertinently deposed he is in the business of money lending. His testimony is reproduced for ready reference, "*I used to give money on interest to numerous person which perhaps five to seven person. I had given money on interest to 10 to 29 persons and they have paid me the same amount with interest. I am doing the business of money lending from the last 5/6 years*"

14. The learned counsel for the appellant failed to identify any misreading or misapplication of the statement of the plaintiff (PW-2), by the learned Courts below. It is clear from the testimonial account of the plaintiff that money was advanced on interest to the respondent in course of his regular business transactions. Moreover, the plaintiff did not presented any evidence to suggest that it was not a business transaction but a friendly loan. Further, execution of pronote (Ex.P1) and receipt (Ex.P2), affirms the fact that plaintiff gave money to the respondent, in due course of his business of money lending. Furthermore, plaintiff tendered no licence to show that he was a registered money lender.

15. Given the facts, it is held that the learned Courts below have appropriately placed reliance upon the unequivocal admission of the plaintiff

acknowledging his business of money lending and consequently dismissed his suit, being barred under Section 3 of the Act for his failure to place on record his registration certificate as a money lender and his licence to run the business as such . I have gone through the findings of the learned Courts below, learned counsel for the appellant has failed to point out any factual or legal error in said findings.

16. No other point urged.

17. All these factors taken together, makes no ground to form a different opinion to bring the findings of the learned Courts below within the realm of perversity.

18. For the reasons aforementioned, I do not find any illegality or perversity, in the concurrent findings, which are based on sound application of oral and documentary evidence. No ground for interference is made out much less involvement of any substantial question of law.

AUGUST 01,2024 **(RITU TAGORE)**
Gaurav Sorot **JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No