

In the High Court of Punjab and Haryana, at Chandigarh**Regular Second Appeal No. 1520 of 2021 (O&M)****Date of Decision: 24.01.2024**

Rajpal Singh

... Appellant(s)

Versus

Jagsir Singh

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.Present: Mr. Harshit Jain, Advocate
for the appellant(s).Ms. Gagandeep Kaur, Advocate
for the respondent.**Anil Kshetarpal, J.**

1. The Regular Second Appeal in the States of Punjab and Haryana and Union Territory, Chandigarh is governed by Section 41 of the Punjab Courts Act, 1918 and not by Section 100 of the Code of Civil Procedure, 1908, as held by a five Judge Bench of the Supreme Court in *Pankajakshi (Dead) through LRs v. Chandrika and Others (2016) 6 SCC 157*.

2. In this regular second appeal, the correctness of the concurrent findings of the facts, arrived at by both the Courts below, is challenged by the defendants while decreeing the plaintiff's suit for the recovery of ₹2,56,000/- along with the interest @ 6% per annum from the date of institution of the suit i.e. 13.10.2015 till its recovery.

3. On 16.12.2021, notice of motion in the appeal was issued with

the following order:-

“It is submitted by the counsel for the appellant that although the appellant had moved an application for additional evidence before the lower Appellate Court, however, the said application was not decided even while deciding the appeal finally.

Notice of motion for 14.07.2022.

Dasti as well.

In the meantime, the execution proceedings shall remain stayed, till the next date of hearing only.

However, it is clarified that this interim order shall not be extended any further under any circumstances.”

4. The learned counsel representing the respondent has produced a copy of the order dated 27.10.2021, passed by the First Appellate Court while dismissing the application filed by the appellant, with a copy to the learned counsel representing the appellant who, after examining the same, admits its correctness.

5. The learned counsel representing the appellant contends that none of the attesting witnesses of the pronote and receipt has been examined, therefore, the suit filed by the plaintiff was liable to be dismissed.

6. This Court has considered the submissions of the learned counsel representing the parties.

7. It has come on the record that one of the marginal witnesses has died, whereas the second was won over by the appellant. In order to prove the pronote and the receipt, the plaintiff himself has stepped into the witness

box and examined the Scribe who has proved the entry of the pronote in his note book which is also signed by the appellant. Moreover, while filing the written statement, the defendant admits that he was called in the Tehsil Complex and on request of the plaintiff, he appended his signatures on certain documents.

8. Keeping in view the aforesaid facts, the signatures on the pronote and the receipt are admitted by the appellant. Hence, no ground is made out to interfere with the concurrent findings of facts arrived at by both the Courts below. Consequently, the present appeal is dismissed.

9. The miscellaneous application(s) pending, if any, shall stand disposed of.

**(Anil Kshetarpal)
Judge**

January 24, 2024
“DK”

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