2024:PHHC:075664

107

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

RSA No.724 of 2022 (O&M)
Date of Decision:28.05.2024

Karnail Singh

…Appellant

Versus

Kashmir Singh

…Respondent

CORAM: ***HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA***

Present:- Mr. Karanjeet Singh Brar, Advocate
for the appellant.

Mr. N.K. Manchanda, Advocate
for the respondent.

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MEENAKSHI I. MEHTA, J. (Oral)

Feeling aggrieved by the judgment and decree as passed by learned Civil Judge (Junior Division), Moga (for short 'the trial Court') on 15.07.2019, whereby the Civil Suit filed by the respondent-plaintiff (here-in-after to be referred as 'the plaintiff') for seeking a decree for recovery of the sum of Rs.8,16,000/- from the appellant-defendant (here-in-after to be referred as 'the defendant'), along-with *pendente-lite* and future interest @ 1% per month, has been decreed and also by the judgment and decree, as handed down by learned District Judge, Moga (for short 'the Lower Appellate Court') on 04.08.2021 qua the dismissal of the appeal moved by the defendant to assail the above-referred judgment and decree rendered by the trial Court, the defendant has chosen to prefer the instant appeal to lay challenge to the same.

2. Bereft of unnecessary details, the facts, as emanating from the perusal of the file and culminating in the filing of the present appeal, are that the plaintiff filed the afore-said Civil Suit against the defendant, while averring that the defendant had borrowed a sum of Rs.06 (six) lac from him and had executed a Pronote and Receipt in lieu thereof on 24.11.2012 but despite his (plaintiff's) repeated requests, the defendant had failed to repay the entire outstanding amount. The defendant filed his written-statement wherein he contested the claim of the plaintiff on several grounds. The plaintiff also submitted his replication, controverting the assertions, as set-forth by the defendant in his written-statement, besides reiterating his claim as canvassed in the plaint. Then, the parties were put to the trial by framing the issues and after appreciating and evaluating the evidence as led by them on the record and hearing their respective counsel, the trial Court decreed the above-mentioned Civil Suit and the appeal moved by the defendant against the judgment and decree passed by the trial Court, has ended in its dismissal, as already discussed in the opening para of this judgment.

3. I have heard learned counsel for the appellant-defendant as well as learned counsel for the respondent-plaintiff in the instant appeal and have also perused the file carefully.

4. It is worth-while to mention here that vide the order, as passed by the Co-ordinate Bench on 16.11.2023, notice of motion had been issued only to the extent of the grant of interest.

5. Learned counsel for the defendant contends that in the Civil Suit, the plaintiff himself had claimed the interest on the principal (loan) amount of Rs.06 (six) lac, @ 1% per month whereas vide the judgment and decree dated 15.07.2019, the trial Court has, inadvertently, awarded the interest @ 6% per month, i.e @ 72% per annum and this error has not been rectified by the Lower Appellate Court, while passing the judgment and decree dated 04.08.2021 and therefore, the judgments and decrees passed by both the Courts below, are liable to be modified accordingly.

6. Per contra, learned counsel for the plaintiff argues that the defendant did not challenge the afore-granted rate of interest before the Lower Appellate Court and in the present appeal as well and it being so, this appeal deserves dismissal.

7. Even if the defendant did not raise any contention to challenge the above-mentioned rate of interest, as awarded by the trial Court, before the Lower Appellate Court and has not put-forth such plea in his grounds of the instant appeal, even then, this Court cannot lose sight of the fact that as per the claim as set-forth by the plaintiff himself in the Civil Suit, the interest was payable to him @ 1% per month, i.e @ 12% per annum but the trial Court has allowed the same @ 6% per month and the Lower Appellate Court also seems to have failed to notice the afore-said discrepancy, while rendering the judgment and decree on 04.08.2021. In these circumstances, it becomes crystal clear that the impugned judgments and decrees are not legally sustainable so far as these pertain to the grant of interest @ 6% per month and rather, the interest has to be allowed @ 1% per month or say

12% per annum on the principal/loan amount of Rs.06 (six) lac throughout and hence, the same are liable to be modified accordingly.

8. As a sequel to the fore-going discussion, the appeal in hand is, hereby, partly allowed/accepted to the extent that the impugned judgments and decrees, as passed by both the Court below, are modified by way of granting interest on the amount of Rs.06 (six) lac, @ 12% per annum from the date of execution of the Pronote and Receipt till the actual realization of the decretal amount.

28.05.2024 **(MEENAKSHI I. MEHTA)**
pooja **JUDGE**

Whether speaking/reasoned: *Yes*
Whether Reportable: *No*