

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

110

RSA-4433-2018 (O&M)
Date of decision: 19.03.2024

NATHA SINGH

..Appellant

Versus

MALKIAT SINGH

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. J.K. Singla, Advocate
for the appellant.ANIL KSHETARPAL, J(Oral)

1. This is plaintiff's regular second appeal against the judgment and decree passed by the First Appellate Court, which in turn has reversed the judgment and decree passed by the trial Court.

2. In substance, the plaintiff filed a suit for recovery of Rs.6,16,100/- on the basis of a pronote and a receipt. He alleged that the defendant borrowed Rs.4,04,000/- on 16.06.2010, while promising to repay the same along with the interest at the rate of 1.5% per month (equivalent to 18% per annum). The defendant while contesting the suit asserted that he has not taken any loan and the pronote and receipt pertain to the period from 1997 to 2007, which has been misused by the plaintiff.

3. The plaintiff in order to prove his case, examined himself as PW-1, PW-2 Sh. Harbhajan, Scribe and PW-3 Sh. Guranditta, marginal witness were examined. All the three persons have admitted that Sh. Natha Singh is in the business of lending the money on the basis of pronotes and receipts. Sh. Natha Singh during his cross-examination has admitted that he lends the money to a very large number of residents of the area and

whenever he has spare money he indulges in the business of money lending. Similar statement has been given by Sh. Harbhajan Singh, Scribe. PW-3 Sh. Guranditta Singh, marginal witness of the pronote and receipts has stated that Sh. Natha Singh is a rich person and he lends money on the basis of pronote and receipts. The First Appellate Court has held that the plaintiff is in the business of money lending and in absence of registration/licence, the plaintiff is not entitled to maintain suit. The Court has relied upon Section 3 of the Punjab Registration of Money Lenders Act, 1938 (hereinafter referred to as the '1938 Act'), which is extracted as under:-

“Section 3: Suits and applications by money lenders barred, unless money lender is registered and licensed:-
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:
(a) at the time of the institution of the suit or deciding the application for execution:-
(i) is registered; and
(ii) holds a valid license, in such form and manner as may be prescribed; or (iii)
(iv) ”

4. Thus, the first appeal filed by the defendant was allowed.
5. The learned counsel representing the appellant has relied upon the judgments passed in **Har Lal Vs. Kanwar Bhan, 2016 (4) ICC 109, Dina Nath Vs. Yash Pal, 2009 (4) RCR (Civil) 105 and Balvinder Singh Vs. M/s Basaikhi Ram Saina Ram, 2008 (2) RCR (Civil) 467**, to contend that the defendant has failed to prove that the plaintiff is in the business of systematic lending and therefore, the bar under Section 3 of the 1938 Act is not attracted.

6. This Court has considered the submissions of the learned counsel representing the appellant.
7. On the request of the Court, the learned counsel representing the appellant has read the cross-examination of Sh. Natha Singh, who has appeared as PW-1. He has categorically admitted that he is in the business of money lending and he lends money to a significantly large number of residents of the area. Thus, the judgments relied upon by the learned counsel representing the appellant are not applicable to the case.
8. In this case, all the three witnesses examined by the plaintiff have themselves admitted that Sh. Natha Singh-appellant, is in the business of lending the money to earn income from interest, which is payable. In these circumstances, bar to maintainability of the suit under Section 3 of the 1938 Act, is attracted.
9. The learned counsel representing the appellant did not press any other argument.
10. Consequently, finding no merit in the appeal.
11. Dismissed accordingly.
12. All the pending miscellaneous applications, if any, are also disposed of.

March 19th, 2024
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(ANIL KSHETARPAL)
JUDGE

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