

2024:PHHC:014971

**125 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

RSA-4937-2017 (O&M)

Date of decision: 02.02.2024

Subodh Kumar

....Appellant

Versus

Karta Virender and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr.Karan Singla, Advocate for the appellant
Mr. Vikram Singh, respondent no.1, in person

ANIL KSHETARPAL, J (Oral)

1. Defendant No. 2 assails the correctness of the judgment and decree passed by the First Appellate Court while decreeing the plaintiff's suit for recovery of Rs.1,00,145/- along with interest at the rate of 9% per annum from 19.04.2005 till the date filing of the suit and at the rate of 6 % per annum from the date of filing of the suit till its realisation.

2. A summary suit under Order XXXVII of the Code of Civil Procedure, 1908, was filed. The defendants appeared and filed the address for service. The summons were served on the defendants, however, they never filed any application for permission to defend. However, the court dismissed the suit. In Regular Second Appeal, the case was remanded back. Opportunity of hearing was given to the defendants. The trial court dismissed the suit on the ground that the original bond has not been produced in evidence. The First Appellate Court, after re-examining the evidence came to the conclusion that written agreement between the parties has been produced, which has been exhibited as Ex.P9.

3. Keeping in view the aforesaid facts, the First Appellate Court accepted the appeal.

4. Learned counsel representing the appellant contends that the suit was filed on the basis of bond, which has never been produced.

5. This Court has considered the submissions made by the learned counsel representing the parties.

6. Ex.P9 is a written contract between the parties. The defendants have failed to putforth any plausible defence.

7. Keeping in view the aforesaid facts, no ground to interfere is made out.

8. Hence, dismissed.

9. All the pending miscellaneous applications, if any, are also disposed of.

02.02.2024

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE