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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA-287-2020 (O&M)
Reserved on : 20.05.2024
Pronounced on: 31.05.2024

Veena Rani & Anr. ....Appellants

VERSUS

Narinder Singh ....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Nakul Sharma, Advocate for the appellants.

ALKA SARIN, J.

1. The present appeal has been preferred by the defendant-appellants challenging concurrent findings returned by both the Courts decreeing the suit for recovery filed by the plaintiff-respondent.

2. The brief facts relevant to the present case are that the plaintiff-respondent filed a suit for recovery of Rs.1,50,000/- averring that one Chander Mohan, the predecessor-in-interest of the defendant-appellants (husband of defendant-appellant No.1 and father of defendant-appellant No.2), was known to him and in the first week of January 2010 Chander Mohan approached the plaintiff-respondent and requested for a loan amount of Rs.1,50,000/- for one year. The said request was accepted by plaintiff-respondent and an amount of Rs.1,50,000/- was lent for one year @ 18% per annum. At the time of the aforesaid transaction, Chander Mohan issued a

post-dated cheque bearing no.401111 dated 07.01.2011 for an amount of Rs.1,50,000/-. Chander Mohan kept on regularly paying the interest on aforesaid loan amount to the plaintiff-respondent upto the month of June 2010. On 02.07.2010 Chander Mohan expired leaving behind the defendant-appellants as his legal representatives who inherited the properties of Chander Mohan. After the death of Chander Mohan the plaintiff-respondent requested the defendant-appellants to pay the borrowed amount, however, they refused to do so. Hence, the present suit. The defendant-appellants contested the suit and contended that no loan amount was ever borrowed by Chander Mohan during his life time from the plaintiff-respondent as Chander Mohan was never short of funds and he owned his own residential house apart from his business in the name and style of M/s Chander Mohan and Sons which continued till his death. It was further contended that the present suit was a result of malice as some other litigation was pending between the parties. The cheque was claimed to being forged and fabricated. Replication was filed denying the averments of the written statement and reiterating those of the plaint.

3. On the basis of the pleadings of the parties the following issues were framed :

1. Whether the plaintiff is entitled to recovery of Rs.1,50,000/- along with interest as prayed for ? OPP

2. Whether suit of the plaintiff is false, frivolous and

vexatious ? OPD

3. Relief.

4. The Trial Court vide judgment and decree dated 15.09.2018 decreed the suit of the plaintiff-respondent. Aggrieved by the same, an appeal was preferred by the defendant-appellants which appeal was dismissed by the First Appellate Court vide judgment and decree dated 21.08.2019. Hence, the present regular second appeal.

5. Learned counsel for the defendant-appellants would contend that both the Courts have erred in decreeing the suit of the plaintiff-respondent. It is argued that Chander Mohan never borrowed any amount from the plaintiff-respondent and that the cheque dated 07.01.2011 was forged and fabricated. It is also contended that the suit was barred by limitation.

6. I have heard the learned counsel for the defendant-appellants.

7. In the present case both the Courts have found that Chander Mohan had taken a loan of Rs.1,50,000/- from the plaintiff-respondent. The signatures of Chander Mohan on the cheque dated 07.01.2011 tally with his signatures in the Bank. The defendant-appellants have brought forth nothing to explain how this cheque was in the hands of the plaintiff-respondent if Chander Mohan had not taken a loan from him. No expert witness was produced by the defendant-appellants to compare the signatures of Chander Mohan on the cheque with his admitted signatures. Regarding the plea of

limitation it is be noticed that this plea was not raised before the Trial Court nor was any issue framed. Even otherwise, the First Appellate Court found that the suit had been filed within a period of three years of the alleged cheque dated 07.01.2011 Ex.P1. No other point was argued.

8. In view of the above, the impugned judgments and decrees suffer from no illegality. The suit of the plaintiff-respondent has rightly been decreed. The present appeal is without merits and the same is dismissed. Pending applications, if any, also stand disposed off.

(ALKA SARIN)
JUDGE

31.05.2024
Aman Jain

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No