

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

RSA No.1089 of 2020 (O&M)

Date of Decision: 07.02.2024

Paramjit Kaur and another

...Appellants

Versus

M/s Janak Raj & Company Tapa Mandi

...Respondent

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

Present:- Mr. Avtar Singh Bhatti, Advocate
 for the appellants.

MEENAKSHI I. MEHTA, J. (Oral)

Feeling aggrieved by the judgement and decree passed by learned Civil Judge (Senior Division), Barnala (for short 'the trial Court') on 03.08.2016, whereby the Civil Suit, as filed by the respondent-plaintiff-Firm (here-in-after to be referred as 'the plaintiff) against the appellants-defendants (here-in-after to be referred as 'the defendants') for the recovery of the amount of Rs.4.4 lac, has been decreed to the effect that the plaintiff is entitled to recover the afore-said amount from them (defendants), along-with interest thereon @ 9% per annum from the date of this amount having fallen due till the date of decree and future interest @ 6% per annum from the date of decree till its realisation as well as by the judgment and decree handed down by learned Additional District Judge, Barnala (for short 'the Lower Appellate Court') on 09.09.2019, partly allowing the appeal filed by the defendants and thereby, modifying the judgement and decree passed by

the trial Court while holding the plaintiff to be entitled to the interest @ 6% per annum from the date of filing of the Suit till the actual realisation of the above-said amount and further clarifying that the decree passed by the trial Court could be executed against the defendants only to the extent of the inheritance of the property of their predecessor-in-interest named Gurpreet Singh @ Jhirmal Singh (here-in-after to be referred as 'the borrower') by them, they have preferred the instant appeal to lay challenge to the same.

2. As per the brief factual-matrix emanating from the perusal of the file and culminating in the filing of the present appeal, the plaintiff filed the afore-referred Civil Suit against the defendants and averred in the plaint that the borrower had raised the loan of total amount of Rs.4.4 lac from it (plaintiff) vide two cheques worth Rs.1.85 lac and Rs.2.55 lac and he had agreed to repay the same with interest thereon @ 2% per month and during his lifetime, he (borrower) issued a cheque worth the sum of Rs.4.4 lac in its (plaintiff's) favour but the same had been dishonoured by the concerned Bank. The defendants filed their written-statement, controverting the claim of the plaintiff-Firm by specifically asserting therein that both the above-said cheques had been issued by the plaintiff in favour of the borrower towards the price of the crops, as sold by him to it. The plaintiff filed the replication to deny the assertions of the defendants and re-iterate its earlier claim as put-forth 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 learned counsel, the trial Court decreed the Suit and the appeal, preferred by the defendants, has also been partly allowed, as already discussed in the opening para of this judgment.

3. I have heard learned counsel for the appellants-defendants in the instant appeal, at the preliminary stage and have also gone through the file carefully.

4. Learned counsel for the defendants contends that both the afore-mentioned cheques worth total amount of Rs.4.4 lac, had been issued by the plaintiff in favour of the borrower towards the price of the crops as sold by him to it (plaintiff) and therefore, neither the borrower nor the defendants, i.e his (borrower's) successors-in-interest, could be held liable to pay any amount to the plaintiff-Firm but the trial Court as well as the Lower Appellate Court had not appreciated the above-discussed crucial aspect of the matter in the correct perspective and thus, it becomes explicit that the impugned judgments and decrees are not legally sustainable and hence, these deserve to be set-aside.

5. However, the afore-raised contention is devoid of any merit because both the Courts below have concurrently held that the plaintiff had issued two cheques of the total sum of Rs.4.4 lac, in favour of the borrower and that during his lifetime, he (borrower) had also issued a cheque of the similar amount in the name of the plaintiff. These facts, in themselves, lead to the only irresistible inference to the effect that the borrower had issued the above-said cheque to the plaintiff for repayment of the afore-mentioned amount claimed to have been given to him as loan and the above-referred two cheques had not been issued by the plaintiff in his (borrower's) favour towards the payment of the price of any crops allegedly sold by him to it. Though, the defendants have asserted that the afore-said cheque was blank at the time when the plaintiff had obtained the same from the borrower

after procuring his signatures on it and the above-mentioned amount had, subsequently, been filled therein but again, the fact remains that both the afore-said Courts have categorically observed that the defendants had not been able to substantiate/establish their afore-discussed plea/assertion.

6. As a sequel to the fore-going discussion, it follows that the appeal in hand is bereft of any merit and therefore, it deserves dismissal. Resultantly, the same stands dismissed accordingly.

07.02.2024
pooja

(MEENAKSHI I. MEHTA)
JUDGE

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