IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

117 **RSA-590-2022 (O&M)**
Date of decision: 08.05.2025

Surat Singh **...Appellant(s)**

Vs.

M/s. Om Parkash Dilbag Singh **...Respondent(s)**

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Ajay Ghangas, Advocate for the appellant.

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NIDHI GUPTA, J.

The defendant is in second appeal against the concurrent judgments and decrees of the learned Courts below, whereby the suit filed by the plaintiff/respondent herein, for recovery of Rs.5,11,343/-, has been decreed by both the Courts below.

2. It is *inter alia* submitted by learned counsel for the appellant that the learned Courts below are in patent error in decreeing the suit of the plaintiff as the suit was barred by limitation. It is submitted that it is own case of the plaintiff that the appellant had borrowed monies on 11.05.2012; whereas suit has been filed on 15.05.2015. It is submitted that therefore, there was delay of 5 days in filing the suit. However, this aspect of the matter has not been considered by learned Courts below.

3. It is further submitted that the appellant used to sell crops and purchase urea, seeds and fertilizers etc. from the plaintiff. However, the plaintiff has misused the said transactional record to show loan payments

to the appellant. Moreover, in the income tax returns submitted by the plaintiff, he has not shown advance of any loan to the appellant. Even interest payments are not reflected in the income tax returns submitted by the plaintiff. In this regard, learned counsel refers to the evidence of DW3 Assistant Income Tax Officer, who had clearly stated in his evidence that assessee/plaintiff has not mentioned any amount either against the column of loan and advances or against the interest income in any of the returns. It is submitted that this proves that plaintiff had made false and incorrect entries after forging the thumb impressions of the appellant/defendant. As such, case of the plaintiff was not proven.

4. In this regard, Learned counsel also refers to deposition of DW4 Manish Jain, who had stated that he had done auditing of the plaintiff firm on 19.08.2008 and no amount was mentioned in its Income Tax Return against the column of loan and advances as well as interest income. Plaintiff had also not produced its balance sheet to corroborate the claim. Thus, it was proved that no amount was due against the appellant and plaintiff had prepared forged entries.

5. It is lastly submitted that the plaintiff was engaged in money lending business to public but did not have license under the Money Lender Act. It is submitted that therefore, in view of the above facts, suit of the plaintiff could not have been decreed. It is accordingly prayed that the present appeal be allowed; and the impugned judgments and decrees of the learned Courts below be set aside.

6. No other argument is raised on behalf of the appellant.

7. I have heard learned counsel for the appellant/defendant and perused the case file in great detail.

8. Perusal of the record of the case shows that it was the case of the plaintiff that the plaintiff was a Commission Agent and defendant is an agriculturist. It was the case of the plaintiff that defendant had taken a cash from the plaintiff on several occasions since 27.12.20005. Against loan payments, defendant and his son used to put their signatures in Bahi and roznamcha of the plaintiff. As on 11.05.2012, a total of Rs.2,68,510/- was stated to be outstanding against the defendant. On 17.05.2012, defendant had taken a bag of Urea worth Rs.268/- from the plaintiff. As such as on 17.05.2012, total outstanding was Rs.2,68,778/-. It was pleaded by the plaintiff that despite numerous requests, defendant had failed to make payment of the outstanding amount. As such, plaintiff had served legal notice dated 07.04.2015 demanding Rs.5,11,343/- (which included interest @ 24% per annum from 07.05.2015 onwards. Accordingly, on 15.5.2015, plaintiff had filed the present suit for recovery of Rs.5,11,343/- along with interest @ 24% per annum from 07.05.2015.

9. Vide judgment and decree dated 22.08.2019, learned trial Court partly decreed the suit holding the plaintiff entitled to recovery of Rs.2,68,510/- principal amount alongwith simple interest @ 6% per annum with effect from 17.05.2012. The appeal filed by the defendant was dismissed with costs by the learned lower appellate Court vide judgment and decree dated 29.01.2021. Hence, present second appeal by the defendant.

10. I find no ground is made out to interfere in the concurrent findings of the learned Courts below as the plaintiff had duly produced its ledger/Bahi entries Ex.P1, which were proved by PW2 Madan Lal, Accountant of the plaintiff. As per the said entries, it was proved that as on 17.05.2012, a sum of Rs.2,68,778/- was due against the defendant. The said entries also bore signatures of the defendant from 28.11.2011 till 11.05.2012. As already noticed above that after 11.05.2012, there is only one small entry dated 17.05.2012 of Rs.268/- against one bag of urea.

11. All arguments made on behalf of the defendant are liable to be outrightly rejected as the record reveals that all entries upto 11.05.2012 stand admitted by the defendant. The defendant has categorically and clearly admitted in his evidence that he used to put his signatures on the plaintiff's Bahi after accounting and accepting the entries therein to be correct. The defendant had clearly deposed that he used to affix his signatures in the plaintiff's Bahi after checking the same during accounting of Bahi every six months. The defendant has categorically and specifically admitted his signatures at point 'A' to 'T' against entry dated 11.05.2012 showing outstanding of Rs.2,68,510/-. Needless to say, in the face of admission of the defendant himself, it cannot be stated by any stretch of imagination that the said signatures were fraudulently obtained by the plaintiff. By his own evidence, the defendant had falsified his averment in the written statement to the effect that the plaintiff had obtained his signatures on blank papers. Further, in

view of the unambiguous admission of the defendant, the entries reflecting payments due from the defendant, stood proved.

12. It is settled position in law that admission is the best evidence. In the present case, in view of the admission of defendant himself, no further evidence was needed. The Hon'ble Supreme Court in "***Divisional Manager, United India Insurance Co. Ltd. & anr. vs. Samir Chandra Chaudhary" Law Finder Doc Id # 83537***, has held that an "*admission of fact is good evidence*" against the person admitting the same unless it is legally explained away to be made under a *bona fide* mistake. In the present case, there is no such pleading by the defendant that the admission made by him was under a bona fide mistake. Thus, in view of the admissions made by the defendant himself, the plea of the defendant that plaintiff had made false and incorrect entries after forging the thumb impressions of the appellant/defendant, is liable to be rejected. In this regard, following judgments of this Court are relevant: -

1. ***Smt. Ji Kaur vs. Smt. Bhullan etc. Law Finder Doc Id # 114579;***
2. ***Jai Lal and another vs. Mst. Hans Kaur, Law Finder Doc Id # 128845;***
3. ***Mst. Ranbir Kaur and others vs. Angrez Kaur alias Charanjit Kaur and another, Law Finder Doc Id # 76842; and***
4. ***Darbara Singh son of Inder Singh of Village Cheema, Tehsil and District Sangrur vs. Jaswant Kaur widow of Chand Singh of Village Cheema, Tehsil and District Sangrur and others, Law Finder Doc Id # 523620.***

13. As regards argument of the defendant that the present suit is barred by limitation, the same is liable to be rejected as firstly, it is the case of the plaintiff that the last payment was made to the defendant on

17.05.2012; whereas the present suit was filed on 15.05.2015 i.e. within a period of limitation. Moreover, the record reveals that plea of limitation was never raised by the defendant before any Courts below.

14. Learned counsel for the appellant is unable to dispute or controvert the above said facts and findings on record; or even the legal position as discussed above.

15. As such, no ground is made out to interfere in the concurrent judgments and decrees of the learned Courts below. The present regular second appeal is hereby **dismissed.**

16. Pending applications, if any, stand disposed of.

08.05.2025 **(NIDHI GUPTA)**
Divyanshi **JUDGE**

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