



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

**RSA No. 1287 of 2022 (O&M)
Date of Decision: 07.07.2025**

M/s Panna Lal Parshotam Kumar, 18-A, Around Additional Mandi, Old Stadium Road, Sirsa, District Sirsa, through its Proprietor Purshotam Kumar, resident of Old Stadium Road, Sirsa, District Sirsa.

..... Appellant

Versus

Jarnail Singh son of Shri Harcharan Singh, resident of Village and PO Farwain Kalan, Tehsil and District Sirsa.

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Dheeraj Narula, Advocate
for the appellant-plaintiff.

HARKESH MANUJA, J. (ORAL)

By way of present appeal, challenge has been laid to the judgment and decree dated 16.03.2020 passed by the Court of Additional District Judge, Sirsa (**hereinafter to be referred as “First Appellate Court”**), whereby an appeal filed at the instance of appellant-plaintiff against the judgment and decree dated 12.10.2018 passed by the Court of Civil Judge (Senior Division), Sirsa (**hereinafter to be referred as “trial Court”**), dismissing the suit for recovery of Rs.2,57,943/- instituted at the instance of appellant-plaintiff, was dismissed; thereby upholding the judgment and decree passed by the trial Court.

[2] Briefly stating, the appellant-plaintiff / firm filed a suit for recovery of Rs.2,57,943 (i.e. Rs.1,81,650/- being the principal amount and Rs.76,293/- as interest @ 2% per month from the period from

18.05.2015 to 18.03.2017) alongwith future interest at the rate of 2% per month from 18.03.2017 till its realization on the basis of receipt dated 18.05.2015. It was pleaded that respondent-defendant (Jarnail Singh) borrowed a sum of Rs. 1,81,650/- from the appellant-plaintiff for his urgent need on 18.05.2015 on credit basis, while assuring to repay the borrowed amount within six months with interest @ 2% per month and in this regard, respondent-defendant executed a receipt dated 18.05.2015, upon which he put his signature in the presence of witnesses. The appellant-plaintiff demanded his amount from the respondent-defendant, but he failed to repay the same. Hence, the suit was filed.

[2.1] Upon notice, respondent-defendant (Jarnail Singh) appeared and disputed the version made in the plaint, while stating that the appellant-plaintiff was not a registered firm and accordingly not authorized to file the present suit. It was further stated that respondent-defendant used to sell his agriculture yield through the commission agency of the appellant-plaintiff/Firm and whenever respondent-defendant received the amount of sale proceed of his agriculture yield sold through commission agency of appellant-plaintiff/Firm, they used to get the signatures of defendant on the pretext of having received the amount of sale proceed. It was also pleaded that respondent-defendant never borrowed Rs.1,81,650/- from the appellant-plaintiff for his need on 18.05.2015 on credit basis against interest @ 2% per month and never executed the receipt dated 18.05.2015 regarding the loan amount. Also, the appellant-plaintiff had not mentioned about name of the scribe or any witness in the plaint and the receipt in question was bogus, fictitious and

result of fraud; which was never read over or scribed in the presence of the respondent-defendant. It was also stated that the signatures of respondent-defendant may have been taken on the pretext of having received the sale proceeds of agriculture yield sold through the agency of appellant-plaintiff; the receipt in question was neither part of account books nor could be termed as promissory note.

[3] Replication was not filed. On the basis of pleadings of the parties, the trial Court framed the following issues:-

- “1. *Whether the plaintiff is entitled for recovery of Rs.2,57,943 as alleged? OPP*
2. *Whether the plaintiff has no locus-standi to file the present suit? OPD*
3. *Whether the suit of the plaintiff is not maintainable in the present form? OPD*
4. *Whether the plaintiff has no cause of action to file the present suit? OPD*
5. *Whether the suit of plaintiff is false and frivolous? OPD*
6. *Relief. ”*

[4] Learned trial Court, vide its judgment and decree dated 12.10.2018, dismissed the suit, filed at the instance of appellant-plaintiff, while deciding Issue No. 1 against the appellant-plaintiff whereas Issue Nos. 2 to 5 were disposed of being not pressed.

[5] Aggrieved thereof, the appellant-plaintiff filed first appeal, which also came to be dismissed vide judgment and decree dated 16.03.2020 passed by the learned First Appellate Court. Hence, the present appeal.

[6] Impugning the aforesaid judgments and decrees dated 12.10.2018 and 16.03.2020, learned counsel for the appellant-plaintiff submits that the appellant-plaintiff has produced copy of 'J' Form, Bahi entries in additional evidence before the First Appellate Court as Ex. P-9 to Ex. P-11 but the same were not considered on the premise that the same do not bear the signature of the respondent-defendant-Jarnail Singh. He has further argued that as per debit vouchers at **Annexure A-1**, as on 18.05.2015 respondent-defendant borrowed a total sum of Rs.2,73,791/- and sold crops for Rs.91,641/- to the appellant-firm and the debit vouchers bears signatures of respondent-appellant, which mistakenly could not be placed on the record with the belief that *Khata Bahi* (Ex. P-10) was already on record. He thus submits that the present appeal deserves to be allowed.

No other argument has been raised on behalf of the appellant-plaintiff.

[7] After hearing learned counsel for the appellant-plaintiff and having gone through the paper-book / records, I am unable to find substance in the submission(s) made on behalf of the appellant-plaintiff/firm.

[8] In the present case, appellant-plaintiff/firm has failed to prove its case. It is not disputed that appellant-plaintiff/firm also manages *Bahi* books regarding giving of money on loan to the agriculturists, but no such Bahi books have been produced on record to substantiate its case. From the documentary evidence available on file, it reveals that debit voucher (Ex.P-1), which is admittedly not part of the account

books, which are regularly kept in the course of business as per Section 34 of the Evidence Act. It is well settled principle of law that when a party withholds any evidence with him, then adverse influence is to be drawn against that party. *Bahi* entry, which is considered as account book; regularly kept in the course of business, was the best evidence with the appellant-plaintiff/firm to corroborate its case, but it failed to produce the same. Appellant-plaintiff also admitted that they used to take signature of the agriculturists on the debit vouchers when agriculturists took money of their crops, however, debit voucher (Ex. P-1) does not bear any serial number, receipt stamp or signatures of respondent-defendant.

[9] Accordingly, in view of the discussion made hereinabove, finding no illegality or perversity with the concurrent findings of fact recorded by the Courts below and there being no misreading or misinterpretation of either the pleadings or the evidence available on record; the present appeal, being devoid of merits, is hereby **dismissed**.

[10] Since, the main appeal has been decided / dismissed, no orders are required to be passed in the pending application(s) and the same shall stand disposed off.

July 07, 2025

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**(HARKESH MANUJA)
JUDGE**

<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>