

221        IN THE HIGH COURT OF PUNJAB AND HARYANA  
              AT CHANDIGARH

RSA-4311-2015 (O & M)  
Date of decision: 11.08.2025

GURDEV SINGH

...APPELLANT

V/S

MOHAN LAL AND ANOTHER

...RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. Harsh Aggarwal, Advocate for the appellant.

Mr. Jai Bhagwan, Advocate and  
Mr. Sanjeev Kumar, Advocate for the respondents.

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**PANKAJ JAIN, J. (ORAL)**

1. Instant regular second appeal has been preferred against the judgment and decree dated 18.12.2014 passed by learned Additional District Judge, Sangrur upholding the judgment dated 07.12.2010 passed by learned Additional Civil Judge, Senior Division, Sunam.

2. For convenience, the parties hereinafter are referred to by their original position before the Court of First Instance i.e. the appellant as defendant and the respondents as plaintiffs.

3. The defendant is in second appeal. Plaintiff filed suit for recovery of Rs.6,90,000/- on the basis of promissory note claimed to have been executed by the defendant in his favour at the time of borrowing the principal amount of Rs.6,00,000/-.

4. Suit was contested by the defendant. As per the defendant, there were earlier dealings between the parties, qua which, the accounts were settled with the intervention of *Panchayat* on 20.03.2002. The amount of Rs.83,352/- was paid by the plaintiff to the defendant. Defendant further claimed that



plaintiff might have procured his signatures upon blank note/receipt fraudulently, at the time receipt regarding Rs.83,352/- was executed by the defendant.

5. Suit filed by the plaintiff was put to trial by the Court of First Instance framing the following issues :

***“1. Whether plaintiff is entitled for recovery of Rs.6,90,000/-? OPP***

***2. Whether plaintiff is entitled to recover interest, if so at what rate? OPP***

***3. Whether plaintiff has no locus standi to file the present suit? OPD***

***4. Whether plaintiff has no cause of action to file the present suit? OPD***

***5. Whether plaintiff is not having money lender's license? OPD***

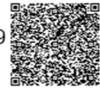
***6. Relief.”***

6. In order to prove execution of promissory note, plaintiff, apart from examining himself. Jaspal Singh, one of the attesting witnesses was examined as PW2. V.B. Bhatnagar, Handwriting and Fingerprint Expert, was examined as PW-3. Harpal Singh, Accountant with the plaintiff firm, was examined as PW-4.

7. Defendant on the other side, examined Devinder Singh as DW-3. The attesting witness Jaspal Singh, who was examined by the plaintiff as PW-2 appeared as DW-2 and testified in favour of defendant as well.

8. Deciding Issues No.1 and 2, Trial Court found that the execution of the promissory note stands proved. The stand taken by defendant is not enough to refute the claim of the plaintiffs, which is based upon the documentary evidence. Suit filed by the plaintiff was accordingly decreed.

9. The aforesaid findings stand affirmed by the Lower Appellate Court in the first appeal.



10. Counsel for the appellant, while assailing the impugned judgment and decree passed by both the Courts below, submits that the plaintiff miserably failed to prove execution of promissory note. The attesting witness examined by the plaintiff, Jaspal Singh PW-2, though tendered his affidavits in Examination-in-Chief, but failed to appear for the cross-examination. Rather, Jaspal Singh appeared as DW-2 against the stand taken by the plaintiff with respect to execution of promissory note. Learned counsel for the appellant further refers to statement of Harpal Singh PW-4 i.e. Accountant, working in the firm. He submits that Accountant of the plaintiff/firm, having admitted that entire account book i.e. *bahi* was prepared with same pen, proves that the *bahi* was created to support the claim of the plaintiff and thus should not be relied. He further submits that the Accountant himself has admitted that there are no signatures of defendant on *bahi*. Learned counsel for the appellant has further drawn attention of this Court to the statement made by DW-3 Devinder Singh, who was present at the time compromise between the parties was arrived at and the accounts were settled on 20.03.2002. The defendant was paid an amount of Rs.83,352/- by the plaintiff. Learned counsel for the appellant submits that it is highly improbable that once the parties parted their ways on sore note and defendant knew that the plaintiff was avoiding to settle the accounts, still defendant shall approach the plaintiff to borrow the money.

11. *Per contra*, learned counsel for the respondents submits that as per the stand taken by defendant in the written statement, signatures on promissory note as well as the receipt stand proved. The burden thereafter shifted upon the defendant to prove that the plaintiff got the same signed from him exercising fraud or forgery. In the entire written statement, there are no particulars of alleged fraud committed by the plaintiff, which is pre-requisite under Order VI



Rule 4, Code of Civil Procedure, 1908. He submits that once the defendant admitted his signatures on promissory note, presumption as contemplated under Section 118 of the Negotiable Instruments Act, 1881 needs to be drawn. The same was required to be rebutted by defendant by leading cogent evidence. He having failed to do so, Courts below have rightly decreed the suit filed by the plaintiff.

12. I have heard counsel for the parties and have carefully gone through the records of the case.

13. In order to succeed in a suit filed for recovery on the basis of promissory note, plaintiff is required to prove execution thereof. In the present case, defendant having admitted his signatures on the document, Courts below rightly held that burden shifted upon him to prove that the document was executed exercising *factum non-est*. There is no evidence adduced by the defendant to prove the same. Rather, the stand taken in the written statement is evasive. Defendant claims that the plaintiff might have obtained his signatures on the blank pronote. Jaspal Singh PW-2 is untrustworthy. His testimony needs to be ignored. Harpal Singh PW-4, though not an attesting witness to the documents, proved that he was working as Accountant with plaintiff. He was witness to the transaction. In view thereof, this Court finds that the execution of promissory note could not be repelled by the defendant and the same stands proved on record. Promissory note is also supported by the Account books proved by the plaintiff and PW-4 Harpal Singh. The account books cannot be belied merely for the reason that it was prepared with the same pen. So far as the testimony of DW-3 is concerned, it has come on record that he is closely related to defendant being his first cousin. Further, his testimony to the effect

that the defendant had not availed loan of Rs.6,00,000/- from plaintiff, is without any basis as he admittedly was not present.

14. Argument raised by learned counsel for the appellant regarding unnatural conduct of defendant in background of the fact that the parties already had bad experience when the plaintiff had to pay an amount of Rs.83,352/- to the defendant, also does not cut any ice. It is not a case where the defendant was lending amount to the plaintiff for the earlier conduct of the plaintiff to act as a repulsion, rather it is a case wherein defendant was availing loan from the plaintiff.

15. In view of the above, finding no merits in the present appeal, the same is ordered to be dismissed.

16. Pending miscellaneous application(s), if any, also stand(s) disposed of.

August 11, 2025  
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(PANKAJ JAIN)  
JUDGE

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|------|---------------------------|--------|
| (i)  | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable        | Yes/No |