



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

110

RSA-1868-2023 (O&M)
Date of decision: 02.02.2026

INDERJEET

.... Appellant

Vs.

Tirath Prakash

.... Respondent

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. Rohan Mittal, Advocate, for the appellant.

DEEPAK GUPTA, J.

CM-INCOMP-688-2025

This is an application under Section 151 CPC for fixing early date of hearing from 02.02.2026.

2. Application is disposed of as having been rendered infructuous.

CM-6663-C-2023

3. This is an application under Section 5 of the Limitation Act read with Section 151 CPC for condonation of delay of 72 days in filing the appeal.

4. For the reasons mentioned in the application, the same is allowed and delay of 72 days in filing the appeal is hereby condoned.

RSA-1868-2023 (O&M)

5. The defendant-appellant is before this Court assailing the concurrent findings recorded by the Courts below. The plaintiff-respondent instituted a suit for recovery of ₹1,72,000/- on the assertion that the defendant had borrowed a sum of ₹1,00,000/- from him by executing a written acknowledgment dated 19.11.2014 on a duly stamped paper, which

was attested by witnesses. As per the said writing, the defendant had agreed to repay the principal amount along with interest @ 2% per month. Despite repeated demands, the defendant failed to repay the loan amount, compelling the plaintiff to institute the suit.

6. The defendant contested the suit by denying the very factum of loan. He specifically denied execution of the writing dated 19.11.2014 and prayed for dismissal of the suit.

7. After framing of issues and upon appreciation of the evidence led by the parties, the learned Trial Court decreed the suit vide judgment dated 20.03.2019, holding the plaintiff entitled to recover ₹1,00,000/- along with interest @ 6% per annum from 19.11.2014 till actual realization.

8. The said judgment was assailed by the defendant before the First Appellate Court. However, the appeal was dismissed vide judgment dated 02.08.2022, thereby affirming the findings of the Trial Court.

9. While assailing the concurrent findings, learned counsel for the appellant contends that the evidence on record has not been properly appreciated and that the Courts below erred in decreeing the suit.

10. A perusal of the record shows that the writing dated 19.11.2014 (Ex.PW1/B), evidencing advancement of loan of ₹1,00,000/- by the plaintiff to the defendant, has been duly proved. The plaintiff stepped into the witness-box and proved the execution of the document. The same was further corroborated by PW4-Udaibhan, one of the attesting witnesses, who categorically supported the plaintiff's version. Their testimonies remained unshaken in cross-examination.

11. Significantly, despite having specifically denied execution of the writing dated 19.11.2014 (Ex.PW1/B) in the written statement, the defendant-appellant did not enter the witness-box to substantiate his defence. He neither offered any explanation regarding the alleged non-execution of the writing nor rebutted the evidence led by the plaintiff. In

such circumstances, the Courts below were fully justified in drawing an adverse inference against the defendant for withholding the best evidence within his knowledge.

12. The reliance placed by the Courts below on the principle laid down in ***Vidhyadhar v. Manik Rao and others, 1993 (3) SCC 573***, is wholly justified, wherein it has been held that when a party abstains from entering the witness-box to support its pleadings, an adverse inference can legitimately be drawn against such party.

13. The findings recorded by both the Courts are purely findings of fact, based upon proper appreciation of oral and documentary evidence and by applying settled principles of law. No perversity, misreading of evidence, or legal infirmity has been pointed out so as to warrant interference by this Court. It is well settled that concurrent findings of fact cannot be disturbed unless shown to be perverse or based on no evidence, which is not the case herein.

14. In view of the above, this Court finds no merit in the present appeal. Accordingly, the appeal is dismissed.

02.02.2026
Vivek

(DEEPAK GUPTA)
JUDGE

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