

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****234****RSA-638-2018 (O&M)****Date of decision: 16.04.2026****Ganesh Arora****...Appellant(s)****Vs.****Ravi Kumar Sawarn and another****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. D.K.Gupta, Advocate
for the appellant.
Mr. Hariom Sharma, Advocate and
Mr. Jsvinder Rao, Advocate for the respondents.

NIDHI GUPTA, J.

Present Second Appeal has been filed by the defendant against the concurrent judgments and decrees of the learned District Courts whereby suit filed by the plaintiff/respondent for recovery of Rs.10 lacs alongwith interest @ 18% p.a. from 14.06.2007 till date of actual realization, has been partly decreed by both the District Courts, as follows:-

"In view of the above discussion, the suit of the plaintiff is hereby decreed with costs. The plaintiffs are held to be entitled to recovery of Rs. 10 lakhs along with the interest @ 10% per annum from the date filing of the suit till actual realization of the amount. Decree-sheet be prepared accordingly and file be consigned to record room after due compliance."



2. It is not disputed by learned counsel for the parties that the learned District Courts have given concurrent findings of fact that plaintiff had made payment of Rs.10 lacs in the account of the defendant by way of cheque. The said payment had been made by the plaintiff on the persuasion of the defendant and his family to invest Rs.10 lacs in their business, in the name and style of M/s. Arora Timber International Ltd. Defendant has not denied that the said amount was received by him. Vide Memorandum of Association Ex.P12, defendant No. 1 had been shown to be the major shareholder in the said company M/s. Arora Timber International Ltd. Vide List of Directors/Ex.P15, appellant is also shown to be Director in the company. It is also undisputed on record that the defendant had received the money in his personal capacity. Hence, plaintiff was not required to implead the company. Defendant had resisted the suit by claiming that in lieu of Rs.10 lacs, defendant had sent timber worth Rs.10 lacs to the plaintiff. However, defendant had failed to prove the same. Defendant had not even examined the accountant who maintained the accounts of the company to prove the said contention.

3. Furthermore, vide Ex.P2, Ex.P3 Ex.P7, Ex.P8, it was proved that cheque No. 734812 dated 14.06.2007 of Rs.10 lacs was deposited in the account of the appellant and was encashed in favour of M/s. Arora Timber International Ltd. on 14.06.2007 itself. Defendant was unable to explain that once cheque for Rs.10 lacs was issued by the plaintiff on 14.06.2007 and was encashed by the defendant the very same day then why were invoices Ex.D1 and Ex.D2 in respect of the timber allegedly sold



by the appellant to the plaintiff, were issued one month later on 25.07.2007 and 26.07.2007 respectively. Even further, the said invoices were signed by one Arshad who was not examined by the defendant. Even address of plaintiff is not given in the said invoices. Defendant was also unable to establish that delivery of any timber was made to the plaintiff. Rather, defendant in his cross-examination has admitted that he did not know the mode of transport vehicle used by the plaintiff for taking the delivery of the said alleged timber. Even further, defendant has failed to produce any register to show that how much timber was retained in his godown or to show that any timber was taken out from the godown. Defendant also failed to mention of place of delivery, time of loading, time of delivery, purpose of purchasing timber, whether it was personal or commercial et cetera. There were even contradictions regarding invoices numbers. As, in the present civil case, defendant mentioned invoice No. as 139 and 145; whereas in the criminal case, he has mentioned invoices nos. as 139 and 128. Moreover, Ex.D1 to Ex.D4, the documentary evidence adduced by the defendant was rejected as they were not proved in accordance with Section 65-B of the Indian Evidence Act as nobody appeared to depose in respect of the said documents.

4. When confronted with all these findings, learned counsel for the appellant/defendant is unable to dispute or controvert the same; however, submits that the rate of interest of 10% as granted by learned District Courts is on the higher side and the same may be decreased. On instructions from the appellant, learned counsel for the appellant submits

that the appellant shall be satisfied if the present Appeal is disposed of after granting limited relief of permitting recovery of Rs.10 lacs to the plaintiff with interest of 6% p.a.

- 5.Learned counsel for the respondent, on instructions from the respondent, submits that he has no objection to the same.
- 6.Learned counsel for the appellant/defendant, on further instructions from the appellant, undertakes that the said payment shall be released to the respondent positively within 8 weeks from today i.e. by 20.06.2026.
- 7.Accordingly, in view of the facts and submissions noted herein above, the present appeal is disposed of in terms of the undertaking given by the appellant - to the effect that the appellant shall refund the amount of Rs.10 lacs alongwith interest @ 6% p.a. from 14.06.2007 till date of actual realization to the plaintiff, within 8 weeks from today i.e. by 20.06.2026 failing which the present Appeal shall stand dismissed forthwith. Needless to say, payments, if any, already made by the appellant, shall be adjusted against the amount due.
- 8.The present appeal stands disposed of as above.
- 9.Pending applications, if any, stand disposed of.

16.04.2026

Divyanshi

(NIDHI GUPTA)

JUDGE

Whether speaking/reasoned:

Whether reportable:

Yes/No

Yes/No