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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ RFA 826/2023, CM APPL. 51948/2023

CM APPL. 51949/2023

MR. ROSHAN LAL
S/O Sh. Kamal Singh Parjapat
R/O Kumhar Basti, VPO Dulhera,
Tehsil Bahadurgarh, Jhajjar (Haryana).

.....Appellant

Through: Ms. Suruchi Mittal and Ms. Sanstuti, Advocates.

versus

SUBE SINGH DESWAL
R/O VPO Dulhera,
Tehsil Bahadurgarh, Jhajjar (Haryana)

Also at: E-43, TYPE-3,
Delhi Police Housing Complex,
Sector-16B, Dwarka, New Delhi.

.....Respondent

Through: Mr. Nagender Deswal, Mr. Rishi Raj Deswal, Advocates.

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

% **25.03.2026**

1. An Appeal under Section 96 of the Code of Civil Procedure, 1908(hereinafter referred to as 'CPC') has been filed on behalf of the Appellant, against the impugned Judgment and Decree dated 15.07.2023 passed by the learned ADJ-05, New Delhi, whereby the Suit of the Respondent/Plaintiff has been ***decreed in the sum of Rs.4,93,500/-, along***

with pendente lite and future interest @ 6% per annum.

2. The Plaintiff had filed ***CS DJ ADJ No. 17720 of 2016***, for recovery of Rs.7,14,000/- along with *pendente lite* and future interest @ 24% per annum.

3. The ***brief facts*** as stated in the Plaint, are that the Plaintiff was having family and friendly relations with the Defendant for the last many years, as they both belonged to the same village. Facing financial crises for many years, the Defendant took a loan in October, 2013, in two tranches, i.e., Rs.2,00,000/- on 29.10.2013 and Rs.2,20,000/- on 01.11.2013. The total loan of Rs.4,20,000/- was thus, taken by the Defendant, for one year.

4. It was further explained that the loan was given at the house of the Plaintiff at Dwarka. At the time of receiving Rs.2,20,000/- on 01.11.2013, the earlier acknowledgment Receipt executed on 29.10.2013 was cancelled, and a fresh Receipt acknowledging the total amount of Rs.4,20,000/- was executed.

5. The Defendant voluntarily accepted to pay interest @ 24% per annum on the amount of Rs.4,20,000/-. However, he failed to pay any interest, which comes to *Rs.2,94,000/- from 01.11.2013 to 30.09.2016*, i.e., for a period of 35 months.

6. Thereafter, the Plaintiff visited the house of the Defendant many times, but the Defendant failed to return the loan amount.

7. The Plaintiff thus filed a Suit for Recovery of Rs.7,14,000/- along with *pendente lite* and future interest @ 24% per annum.

8. **The Appellant/Defendant, in his Written Statement**, took the *preliminary objection* that the Plaintiff was indulging in the business of money lending illegally, without having any valid license. Furthermore, as

per the Income Tax Act, no transaction of more than Rs.20,000/- can be performed in cash.

9. It was further contended that the Plaintiff was not residing at the Dwarka address as given in the Suit, but was a neighbour of the Defendant and resided in Village Dulhera, Jhajjar, Haryana. Therefore, this Court had no territorial jurisdiction to entertain the Suit under Order VII Rule 10 CPC. It was further asserted that the entire Suit was based on concocted facts and did not disclose any cause of action.

10. **On merits,** the Defendant denied having taken any loan from the Plaintiff and claimed that the present Suit had been filed with an intent to extort money from him, on the basis of forged and fabricated documents.

11. It was also asserted that the son of the Plaintiff, who is working in Delhi Police, had been extending threats to the Defendant. There was a dispute between the parties over a buffalo, which escalated, and consequently, the present Suit has been filed by the Plaintiff.

12. It was thus, stated that there was no merit in the Suit, which was liable to be dismissed.

13. ***The Plaintiff filed the Replication*** wherein he reaffirmed the contents of the Plaint.

14. The Issues were framed on 03.07.2017, as under:

> *"(i) Whether the plaintiff is entitled for decree of amount of Rs.7,14,000/- from defendant, as claimed? OPP*
>
> *(ii) Whether the plaintiff is entitled for any interest, if so, at what rate?*
>
> *(iii) Whether the suit is barred on account of territorial jurisdiction? OPD*
>
> *(iv) Relief."*

15. The Plaintiff examined himself as PW-1 and proved the Receipt/Acknowledgment dated 29.10.2013 and 01.11.2013, as Ex.PW1/A.

16. ***PW-2 Sh. Raj Kumar Yadav*** was the witness in whose presence the loan was given, on the two dates. He led his evidence by way of affidavit Ex.PW2/1.

17. The ***Defendant examined himself as DW1*** in support of his defense.

18. ***DW2 Sh. Satbir Singh*** deposed that the Plaintiff was the permanent resident of village Dulhera, Jhajjar, Haryana.

19. **The learned District Judge** on consideration of the evidence, held that the Plaintiff was able to prove the loan of Rs.4,20,000/- which has not been returned by the Defendant. Consequently, the Suit of the Plaintiff was decreed for Rs.4,93,500/- along-with *pendente lite* and future interest @ 6% per annum.

20. Aggrieved by the Judgment and Decree, Appellant/Defendant has filed the present Appeal.

21. **The grounds of challenge** are that it has not been appreciated that all the documents of the Respondent namely Govt. records, Ration Card, Panchayat Certificate, Aadhar Card, Old Age Pension Card show that he is a resident of village Dulhera, Jhajjar, Haryana and *this Court had no territorial jurisdiction to entertain the present Suit.*

22. It is further asserted that Plaintiff/Respondent has not been able to explain the source from where he got Rs.4,20,000/- to give as a loan to the Appellant. He admitted in his cross-examination that he has not been working for past 10-12 years. He also admitted that he was earning Rs.50,000/- to Rs.60,000/- per month, all of which he used to spent on his

children. He admitted that the house-hold expenses were being borne by his son and that he was not an Income Tax Assessee. He also admitted receiving old age pension of Rs.1800/- per month in State Bank of India, Dulhera, from Haryana Government. The Plaintiff in his cross-examination, was also not able to explain the source of the money, which was allegedly given to the Appellant.

23. Reliance is placed on *Sher Mohd. Vs. Mohan Magotra* RFA No.205/2004, wherein in the similar situation, the Court refused to believe the availability of funds in respect of which Receipt was issued and thus, dismissed the Suit for Recovery.

24. The Judgment is passed on conjectures and surmises and is liable to be set aside.

25. **Learned counsel** for the Respondent has argued that though the Appellant for the first time, has questioned the resources of the Respondent and also challenged the validity of Receipt, but no cogent cross-examination on these aspects had been done of the Plaintiff.

26. Moreover, it had been explained by the Plaintiff that though he is a permanent resident of village Dulhera, Haryana, he has been residing with his son in Dwarka and had given the loan in two tranches at his Dwarka house. This fact has been corroborated by the testimony of PW-2 who was present on both the occasions, when the loan was given to the Defendant/Appellant.

27. It is submitted that there is no merit in the present Appeal, which is liable to be dismissed.

Submissions heard and record perused.

28. The Appellant has taken a preliminary objection *pertaining to*

territorial jurisdiction, and has claimed that the plaintiff is a permanent resident of Village Dulhera, Jhajjar, Haryana and no part of cause of action arose in Delhi.

29. In this regard, it would be pertinent to refer to the testimony of PW-1 Sube Singh Deswal, who deposed that he accepted the request of the Defendant/Appellant for giving him loan of Rs.2 lakhs, which he gave to him at the Dwarka address on 29.10.2013. He again gave loan of Rs.2,20,000/- on 01.11.2013 at the Dwarka residence.

30. The PW-1 in his cross-examination explained that he has been residing with his son in Dwarka for the last 10-12 years. He was working as a farmer, but he admitted the suggestion that he was earlier residing at Dulhera, The PW-1 also admitted in his cross-examination that he was getting an old age pension of Rs.1,800/- at his State Bank, Dulhera. His I Card, Aadhar Card Ex. D-1 and D-2 and his Ration Card too are at the address of Village Dulhera. However, he explained that because of the medical problem, he has been residing with his son, at Dwarka. He again reiterated that he had given the loan to the Defendant at the residence of his son Jasveer in the present of Raj Kumar, in the morning at 7.00 AM.

31. The testimony of the PW-1 in this regard has remained unshaken and finds corroboration from PW-2 Raj Kumar, who corroborated that on 29.10.2013 and again on 01.11.2013, the Plaintiff Sube Singh Deswal had given loan of Rs.2 lakhs and Rs.2,20,000/-, respectively to the Appellant at his residence at Dwarka in his presence.

32. A suggestion was given to PW-2 that the Plaintiff, in fact, was the resident of Village Dulhera and that he was never present at the Dwarka residence of his son, but the suggestion was denied. PW-2 further clarified

that the transaction took place in his presence and he had been called to the residence by Jasveer, son of the Plaintiff. He even gave the details of the denominations of the notes in which the loan had been given.

33. The testimony of the plaintiff and PW-2 established that the loan was given in Delhi. The Appellant has not been able to rebut the plaintiff's evidence or adduce cogent evidence to prove otherwise.

34. It has thus, been proved that the loan was advanced at the residence of the Plaintiff at Dwarka, where the Plaintiff resides with his son. Merely because the Plaintiff is a permanent resident of Village Dulhera, Jhajjar, Haryana, would not oust the jurisdiction of the Courts at Dwarka, in the light of his testimony that he at times resides with his son at Dwarka. A part of the cause of action has arisen, within its territorial limits.

35. It is well settled that even if a part of the cause of action arises within the jurisdiction of a Court, the said Court would have the jurisdiction to entertain the Suit in terms of Section 20(c) of the CPC, 1908.

36. **The learned Trial Court has rightly placed reliance upon the judgment in *ICICI Bank Ltd. vs. K.P. Murgesan* (FAO No. 216/2015, decided on 06.11.2015),** wherein it has been held that the place where part of cause of action arises, is sufficient to confer territorial jurisdiction.

37. The objection about territorial jurisdiction, has been rightly rejected by the Ld. ADJ.

38. **On merits,** the Plaintiff in his testimony as PW-1 deposed that a sum of Rs.4,20,000/- was advanced to the Defendant in two tranches on 29.10.2013 and 01.11.2013, which is supported by the Receipt/Acknowledgment Ex.PW1/A.

39. The execution of the said Receipt is fully corroborated by the

testimony of PW-2, who was present at the time of advancement of the loan. The Defendant has neither specifically denied his signatures on the said document nor led any cogent evidence, to disprove its execution.

40. The primary contention raised on behalf of the Appellant is that the Plaintiff has failed to establish *the source of funds* for advancing such a substantial amount. However, the PW-1, in his cross-examination, has deposed that he had been earning in the range of Rs.50,000/- to Rs.60,000/- per month during his working years. The Plaintiff may have become aged and retired, but there can be no presumption that he had no saving or could not arrange the money to advance the loan.

41. Another objection taken by the Appellant was that Plaintiff was not an Income Tax ssessee and there was no proof of his capacity to pay the loan. Merely because the Plaintiff is not an Income Tax assessee or has not produced documentary proof of his savings, cannot be a ground to discard his testimony, especially when the transaction stands duly proved by oral as well as the Receipt/Acknowledgment dated 29.10.2013 and 01.11.2013, as Ex.PW1/A.

42. The reliance placed by the Appellant on the judgment in ***Sher Mohd. vs. Mohan Magotra*** RFA No.205/2004 is misplaced, inasmuch as the said judgment is distinguishable on facts. In the present case, the Plaintiff has not only proved the execution of the Receipt Ex.PW1/A, but the same also stands corroborated by an independent witness, namely PW-2.

43. The contention of the Appellant that the transaction being in cash, is in violation of the provisions of the Income Tax Act, does not render the transaction void or unenforceable in law. At best, it may entail consequences under the Tax statute, but it cannot be a ground to deny the recovery of a

duly proved debt.

44. The learned Trial Court, on appreciation of the entire evidence on record, has rightly concluded that the Plaintiff has been able to establish the advancement of loan of Rs.4,20,000/- and the failure of the Defendant to repay the same.

45. In the light of the above discussion, it is held that the Suit has been rightly decreed in favour of the Plaintiff, for a sum of Rs.4,93,500/-, along with *pendente lite* and future interest @ 6% per annum, vide impugned Judgment and Decree dated 15.07.2023.

46. **There is no merit in the Appeal, which is hereby dismissed.** Pending applications, if any, also stand disposed of.

NEENA BANSAL KRISHNA, J

MARCH 25, 2026/va