



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-639-1999 (O&M)

Sukhdev Singh

. . . . Appellant

Vs.

Mukhtiar Kaur

. . . . Respondent

Reserved on: 23.09.2024
Pronounced on: 25.09.2024

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Argued by:- Mr. Rajesh Gupta, Advocate for
Mr. M.K. Garg, Advocate for
the appellant.

Mr. I.S. Brar, Advocate for
the respondent.

DEEPAK GUPTA, J.

Defendant of the suit is in this appeal against reversal in as much as the suit filed by the plaintiff Mukhtiar Kaur (*respondnet herein*) for recovery of ₹20,550/- was dismissed by the trial Court on 14.08.1997 but the appeal filed by her was accepted by the first appellate court, thus, decreeing the suit.

2. Plaintiff sought recovery by pleading that defendant/appellant had borrowed an amount of ₹15,150/- from her on 08.03.1991 and had executed pronote (Ex.P-1) and receipt (Ex.P-2) on the same date. Defendant agreed to return the same amount along with interest @ 5% per month. However, plaintiff confined her claim to the interest @ 1% per month and stated that at the time of filing the suit, an amount of ₹15,150/- towards principal amount and ₹5,400/- towards interest was outstanding. Defendant refuted the claim by denying to have availed any loan. He alleged the pronote and receipt relied by the plaintiff to be forged documents and prayed for dismissal of the suit.



3. Trial Court believed the version of defendant by holding that pronote and receipt were not proved and so, dismissed the suit. However, the appeal filed by the plaintiff Mukhtiar Kaur was accepted by Ld. Additional District Judge, Faridkot on 06.11.1998 and the suit was decreed.

4. Assailing the aforesaid finding, it is contended by Ld. Counsel for the appellant- defendant that well-reasoned finding of the Court below has been wrongly reversed by the Appellate Court without appreciating the evidence on record, particularly the statement of the expert witness to the effect that signature on the pronote and receipt did not tally with the signature of the defendant.

5. After hearing Id. Counsel for both the sides and perusing the paper-book, this Court does not find any merit in this appeal.

6. As observed by Ld. First Appellate Court, pronote (Ex.P-1) and receipt (Ex.P-2) have been duly proved not only by the testimony of plaintiff Mukhtiar Kaur but further by the testimony of both the attesting witnesses of the documents namely PW-2 Lakhwinder Singh and PW-3 Gurcharan Singh. These witnesses also proved passing on the consideration to the defendant. Learned Appellate Court further observed that all these witnesses were subjected to lengthy cross-examination but nothing could be elicited so as to disbelieve them.

7. Trial Court disbelieved the version of the plaintiff and the attesting witnesses of pronote & receipt on the ground that DW-1 Inderjit Sharma, the son of Ram Sarup, scribe of the documents stated that Ex.P-1 & Ex.P-2 did not bear the signature of his father Ram Sarup. Defendant had also examined one Anil Kumar Gupta, document expert as DW-3, who compared the disputed signature of defendant on the pronote and receipt with the standard signature and opined that Ex.P-1 & P-2 were not signed by the defendant.



8. Learned Appellate Court has rightly discarded the testimony of DW-1 and DW-3 by observing that there is a tendency on the part of expert witness to support the view of the person who called him. Reliance can be placed upon **“Gulzar Ali v. State of Himachal Pradesh” 1998(2) R.C.R.(Criminal) 571.**

9. The most important point to be noted is that defendant Sukhdev did not enter the witness box to deny his signature on the pronote Ex.P-1 and receipt Ex.P-2. The only other witness examined by the defendant apart from DW1 Inderjit Sharma and DW3 Anil Gupta was DW2 Nand Singh, who proved some Will Ex.D-1, which has nothing to do with the pronote and receipt.

10. Defendant Sukhdev Singh having not entered the witness box, adverse inference is liable to be drawn against him that he did not want to face the cross-examination. In the presence of the testimony of the two attesting witnesses of the pronote as well as receipt proving due execution of the same by the defendant Sukhdev Singh, no reliance could have been placed upon the statement of an expert witness disputing the signature of defendant, particularly when defendant himself had not entered into the witness box, to deny his signature on Ex.P1 & Ex.P2.

11. Consequently, it is held that learned first Appellate Court did not commit any error in accepting the appeal of the plaintiff and decreeing the suit. As such, finding no merit in the present appeal, same is hereby dismissed with costs.

25.09.2024

Neetika Tuteja

(DEEPAK GUPTA)

JUDGE

Whether speaking/reasoned?	Yes
Whether reportable?	Yes