

2025:PHHC:035563



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**RSA-3731-2019 (O&M)
Reserved on : 27.02.2025
Pronounced on : 17.03.2025**

Om Parkash ...Appellant

VERSUS

Neeraj Chauhan ...Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Gaurav Singla, Advocate for the appellant.

ALKA SARIN, J.

1. The present appeal has been preferred by the plaintiff-appellant challenging the judgment and decree dated 28.07.2016 passed by the Trial Court and judgment and decree dated 05.09.2018 passed by the First Appellate Court whereby his suit for recovery has been dismissed.

2. Brief facts relevant to the present *lis* are that the plaintiff-appellant and the defendant-respondent are engaged in the business of property dealings and construction and had friendly relations with each other. It was pleaded that in October 2008 the defendant-respondent approached the plaintiff-appellant with a request that he was in need of Rs.1,50,000/- which the plaintiff-appellant arranged and paid to the defendant-respondent on 11.10.2018. The defendant-respondent is stated to have executed a receipt on the same day in front of witnesses and he also handed over a copy of a sale

deed dated 08.10.2007 to the plaintiff-appellant as security of the loan amount with an assurance that he shall return the amount within a short period. It was further averred that the defendant-respondent mentioned that although he was not the registered owner of the property mentioned in the sale-deed, but he had purchased the same from the owner who was very close to him and that when he sells the property then the amount of loan shall be repaid. However, despite requests and issuance of a legal notice the defendant-respondent did not return the amount. Hence, the suit for recovery. In his written statement the defendant-respondent denied having taken any loan from the plaintiff-appellant or of having visited the plaintiff-appellant in the month of October 2008 for getting any financial assistance. The execution of the alleged receipt was denied and all the averments qua payment of loan, execution of acknowledgement receipt, handing over of sale deed as well issuance of legal notice were denied.

3. On the basis of the pleadings of the parties the following issues were framed :

1. Whether the plaintiff is entitled for a decree of recovery of Rs.2,24,250/- as prayed for ? OPP
2. If issue no.1 proved, whether the plaintiff is entitled for interest, if so at what rate ? OPP
3. Whether the suit of the plaintiff is not maintainable in the present form ? OPD
4. Whether the plaintiff has no locus standi and cause of action to file the present suit ? OPD

5. Whether the plaintiff has concealed the true and material facts before the Court to file the present suit ?

OPD

6. Relief.

4. The Trial Court vide judgment and decree dated 28.07.2016 dismissed the suit holding inter-alia that the plaintiff-appellant had not been able to prove that he had advanced any money to the defendant-respondent. Aggrieved by the decision of the Trial Court, an appeal was preferred by the plaintiff-appellant which appeal was dismissed by the First Appellate Court vide judgment and decree dated 05.09.2018. Hence, the present regular second appeal by the plaintiff-appellant.

5. The learned counsel for the plaintiff-appellant has contended that both the Courts have erred in dismissing the suit of the plaintiff-appellant. It is urged that the advancement of loan amount by the plaintiff-appellant to the defendant-respondent was fully proved on the record and therefore the suit deserved to be decreed.

6. Heard.

7. In the present case both the Courts have held that the plaintiff-appellant failed to prove that he had advanced any loan to the defendant-respondent. Even the execution of the receipt Ex.P1 was not established as the witnesses thereto were not examined by the plaintiff-appellant. Apart from the oral testimonies there is nothing on record to prove that any amount was advanced by the plaintiff-appellant to the defendant-respondent. Further, even the sale deed Ex.P2 does not advance the case set-up as neither does the sale

deed pertain to the plaintiff-appellant nor does it bear any signature of the defendant-respondent. One is left guessing as to the relevance of this document to prove the advancement of the alleged loan amount by the plaintiff-appellant. No cogent and reliable evidence has been pointed out by counsel for the plaintiff-appellant to establish that Rs.1,50,000/- was advanced by him to the defendant-respondent. In absence of any evidence in this regard, the plaintiff-appellant is not entitled to the relief of recovery. In the face of the findings recorded by both the fact finding Courts, there is no scope for any interference by this Court. No credible and reliable evidence has been highlighted by the counsel for the plaintiff-appellant for this Court to take a contrary view from the one taken by both the Courts. In view thereof, no fault can be found with the findings returned by both the Courts concerned. No other point was argued.

8. In view of the discussion above, no question of law, much less any substantial question of law, arises in the present case which requires determination by this Court. The appeal, being devoid of any merit, is accordingly dismissed. Pending applications, if any, also stand disposed off.

17.03.2025

Ankur

**(ALKA SARIN)
JUDGE**

NOTE : Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No