

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****107****RSA-2941-2001 (O&M)****Date of decision: 18.07.2025****Punjab and Sind Bank****...Appellant(s)****Vs.****Phula Singh and another****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Rajinder Singh Sukhladhi, Advocate  
for the appellant-Bank.

**\*\*\*****NIDHI GUPTA, J.**

Present Second Appeal has been filed by the plaintiff against the concurrent judgments and decrees of the learned Courts below whereby suit filed by the appellant/plaintiff for recovery of Rs.69,100/- has been dismissed by both the Courts below.

2. Briefly stated the facts of the case are that the plaintiff is the successor in interest of the Punjab and Sind Bank Ltd. Father of defendant No.1, namely, Nirban Singh (now deceased) had applied for grant of loan of Rs.15,000/- for tubewell and engine for monetary benefits. The same was sanctioned to him by the plaintiff Bank on 02.05.1985 against which Nirban Singh had executed a D.P. Note dated 02.05.1985 and had agreed to repay the loan with interest @ 10% p.a. Although Nirban Singh had executed loan documents however, to further secure repayment of the loan, Nirban Singh had mortgaged his land as detailed in the head note of the plaint vide Mortgage Deed No. 4291 dated 15.03.1985 in favour of



plaintiff Bank. Defendant No.2 was also offered as guarantor for repayment of loan vide guarantee dated 02.05.1985. It was the case of the plaintiff before the learned Courts below that Nirban Singh had failed to comply with the terms and conditions of the above documents, and loan amount was not repaid despite repeated several reminders. Thereafter, Nirban Singh had died, and defendant No.2 had inherited his property being his LR; and therefore, he was liable to repay the loan amount. With these pleadings, plaintiff/appellant had filed the present Civil Suit on dated 19.12.1997.

3. Suit was resisted by the defendants on various grounds including limitation; and it was pointed out that besides defendant No.1, there are other heirs of the deceased Nirban Singh, who had not been impleaded as party. Accordingly, dismissal of the suit was prayed for by both the defendants in their separate written statements.

4. On the basis of pleadings of the parties, following issues were framed by the learned trial Court on 02.03.1998: -

*“i) Whether the suit has been instituted through a competent and authorised person? OPP*

*ii) Whether the plaintiff is entitled to recover the amount of Rs.69,100/- as alleged?OPP*

*iii) Whether the plaintiff bank is entitled to future interest/ If so, to what rate? OPP*

*iv) Whether the suit is within limitation?OPP*

*v) Whether the plaintiff has no locus standi to file the present suit? OPD*



*vi) Whether the suit is bad for non-joinder of necessary parties as the LRs of deceased Nirban Singh have not been impleaded as party in the suit/ If so, its effect? OPD*

*Vii) Relief.”*

5. Vide judgment and decree dated 14.12.1998, Id. Civil Judge (Junior Division), Bathinda dismissed the suit of the plaintiff. The appeal filed by the plaintiff was also dismissed by the learned District Judge, Bathinda vide judgment and decree dated 04.01.2001. Hence, the present Second Appeal by the plaintiff.

6. It is submitted by learned counsel for the appellant/plaintiff that learned Courts below have wrongly dismissed the suit of the plaintiff on the ground of limitation as limitation for filing the suit is 12 years. As such, suit of the plaintiff was within time. It is further submitted that the learned Courts below have wrongly held that the respondents are not entitled to repay amount of Rs. 69,100/- as due towards them. The evidence placed on record by the appellant is by way of documents which bear the signatures of Nirban Singh deceased and as such the question of there being false documents does not arise at all. All the requisite documents executed by Nirban Singh at the time of securing loan, have been duly proved by P.W.2 Gurmit Singh, Waraich Singh and P.W.3 Baljit Singh, who have stated that these documents were read over and explained to Nirban Singh, deceased who executed the same after admitting the same to be correct. As such, the Respondents were liable to



pay the amount due towards them and the Courts below have wrongly decided this issue against the Appellant Bank.

7. No other argument is raised on behalf of the appellant.

8. I have heard Id. counsel for the plaintiff and perused the case file in great detail. I find no merit in the submissions made on behalf of the appellant. A perusal of the record reveals that the plaintiff in his plaint itself has alleged that defendant No.1 had executed a balance confirmation letter dated 25.01.1995 for a sum of Rs.39,697/-. However, the said alleged letter was not produced by the plaintiff in his evidence. It is recorded that even no suggestion in respect of this letter was made by the plaintiff to defendant No.1/DW1 during his cross-examination. The plaintiff had only produced a loan revival letter dated 04.01.1994 (Ex.P28) as per which also, the suit was beyond limitation having been filed on 17.12.1997.

9. Furthermore, plaintiff was also unable to prove the alleged Mortgage Deed (Ex.P20) as none of the marginal witnesses were examined. Argument of the plaintiff that there was no specific denial of the Mortgage Deed by the defendants, was liable to be rejected on the ground that the defendants in their respective written statements had specifically denied all documents executed by deceased Nirban Singh. Moreover, case of plaintiff has to stand on its own legs and cannot rely upon any alleged lack of denial on part of the defendants.

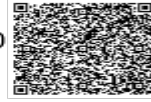
10. As regards the last argument of the appellant that limitation would expire after 12 years, the same is also liable to be rejected. In this



regard, I am in agreement with the reasoning/observations made by the learned trial Court as contained in para 23 of the judgment and decree dated 14.12.1998, which reads as under: -

*“However, the contention of counsel for plaintiff is that it is a mortgage suit and is governed by article 62 of the Indian Limitation Act according to which, the limitation is 12 years from date on which the amount became due. In this regard it is important to mention here that the present suit is governed by Article 62 of the Indian limitation Act and to the limitation in this suit is 12 years. The relevant question to be determined is when the limitation would start in this case as according to article 62 of the Indian limitation act, the limitation will start on the date when amount became due. In this case, it has neither been pleaded nor there is evidence to prove that when amount became due. It was incumbant on the plaintiff this fact because the loan in this case has been allegedly advanced on 2.5.85. It has neither been pleaded nor there is evidence as to when the first instalment of the loan was to be paid by the borrower. It is well settled that the burden to prove that the suit is within limitation is on the plaintiff. In the absence of the proper evidence in this regard, I am of the view that the plaintiff has failed to show that the suit is within limitation.”*

11. From the above, it is clear that plaintiff is unable to prove that the loan amount was secured by mortgage of land. Even if it is assumed that the mortgage was executed on 15.03.1985 vide Mortgage Deed No. 4291, even then limitation of 12 years has expired on 14.03.1997; whereas, the suit has been filed on 19.12.1997. Thus, the suit of the appellant/plaintiff was clearly barred by limitation. It was also



pointed out that no document or acknowledgement dated 25.01.1995 has been proved by the appellant.

12. In view of the above facts, no ground to interfere in the concurrent findings of the learned Courts below is made out.

13. The present Regular Second Appeal is hereby **dismissed**.

14. Pending applications, if any, stand disposed of.

**18.07.2025**

Divyanshi

**(NIDHI GUPTA)  
JUDGE**

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No