



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

123

RSA-6359-2017 (O&M)  
Date of Decision: 22.09.2025

Gurbaj Singh

...Appellant

V/s

Budh Singh

...Respondent

**CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL**

Present: Mr. Sherry K. Singla, Advocate, for the appellant.

Mr. Jai Bhagwan, Advocate, for the respondent.

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**VIKRAM AGGARWAL, J (ORAL)**

This is defendant's appeal against the judgment and decree dated 20.05.2017 passed by the Court of District Judge, Sangrur, vide which the appeal filed by the plaintiff against the judgment and decree dated 18.09.2015 passed by the Court of Civil Judge, (Jr. Divn.), Malerkotla, dismissing the suit filed by him for recovery of Rs.12,04,000/- was allowed, thereby decreeing the suit.

2. For the sake of convenience and clarity, parties shall be referred to as per their original status.

3. The plaintiff (Budh Singh) instituted a suit for recovery of Rs.12,04,000/- against the defendant (Gurbaj Singh). The case set up was that on 04.06.2008, the defendant had borrowed Rs.7 lakhs from the plaintiff and had promised to return the same, on demand, along with interest @ 2% per month.

3.1 A pronote and a receipt were executed. The receipt was signed by the defendant as well. A photograph of the defendant was affixed on the pronote. Despite repeated demands, the defendant did not repay the loan amount as a result of which, the suit was instituted claiming Rs.7 lakhs as



principal amount and Rs.5.04 lakhs as interest w.e.f. 04.06.2008 to 03.06.2011.

4. The defendant opposed the suit. In the written statement, certain preliminary objections as regards maintainability, cause of action, the suit being barred, the pronote and receipt dated 04.06.2008 being forged and fabricated documents etc. were raised. On merits, the factum of the defendant having borrowed Rs.7 lakhs and the pronote and receipt having been executed was denied. It was claimed that the pronote and receipt were forged and fabricated documents.

4.2 Replication was filed, in which the contents of the written statement were denied and those made in the plaint were reiterated.

5. From the pleadings of the parties, following issues were framed.

***“1. Whether plaintiff is entitled to recovery Rs.12,04,000/- from defendant on the basis of pronote and receipt dated 04.06.2008? OPP***

***2. Whether plaintiff is entitled to recover pendentelite, future interest @ 2% per month from the date of filing the suit till realization?OPP***

***3. Whether the present suit is not maintainable?OPD***

***4. Whether pronote and receipt dated 04.06.2008 is forged, fictitious, document and without consideration?OPD***

***5. Relief.”***

6. Parties led their respective evidence.

6.1 The trial Court dismissed the suit for recovery holding that the plaintiff had not been able to prove the due execution of the pronote. However, the appeal filed by him against the said judgment and decree was allowed by the first appellate Court, thereby decreeing the suit, leading to filing of the instant appeal by the defendant.

7. I have heard learned counsel for the parties.

8. Learned counsel for the appellant has submitted that the execution of the pronote and the receipt did not stand proved. Learned counsel has referred to the oral and documentary evidence led on the record of



the case. He has further submitted that the suit was not filed within the period of limitation. Learned counsel submits that the pronote was allegedly executed on 04.06.2008 and the suit was filed on 04.06.2011, whereas it should have been filed on 03.06.2011. Learned counsel further submits that the suit was filed without the requisite Court fee. An application for enlarging the time to pay the Court fee was moved, which though, was allowed by the trial Court, but this in itself shows that the suit was false. Learned counsel submits that a person, who did not have Rs.31,000/- to pay as a Court fee, could not have advanced a loan of Rs.7 lakhs in cash. Learned counsel submits that the plaintiff was also not able to prove as to how he was in possession of such a big amount. He submits that the well reasoned judgment and decree passed by the trial Court was set aside by the first appellate Court, without giving any cogent reasons.

9. *Per contra*, learned counsel for the respondent (plaintiff) submits that there is no illegality in the impugned judgment and decree passed by the first appellate Court. He submits that in so far as the limitation is concerned, the first day i.e. the date of execution of the pronote would be excluded and, therefore, the suit was within limitation. As regards Court fee, he submits that permission was duly granted by the trial Court and, therefore, the appellant can have no grievance as regards the same since he never challenged the said order. On merits, he submits that the attesting witness and scribe of the pronote were duly examined. Learned counsel submits that once the defendant had raised the plea that the pronote was a forged and fabricated document, then the onus to prove this fact had shifted on him, but the defendant did not lead any evidence to prove this fact. Learned counsel submits that no fault can be found with the judgment and decree passed by the first appellate Court and the same, therefore, deserves to be upheld.



10. I have considered the submissions made by learned counsel for the parties.

10.1 Coming first to the issue of limitation, the same was never raised either before the trial Court or before the first appellate Court during the course of arguments, though, an objection in this regard was raised in the written statement. Be that as it may, being a legal issue, the same can be raised at any stage. As per Section 12(1) of the Limitation Act, 1963, in computing the period of limitation for any suit, appeal or application, the day from which such period is to be reckoned, is to be excluded. The pronote was executed on 04.06.2008. This day would, therefore, be excluded. Starting the period of three years from 05.06.2008, the limitation would end on 04.06.2011. The suit was filed on 04.06.2011 and was, therefore within limitation.

10.2 Coming to the issue of Court fee, the application filed by the respondent-plaintiff was duly allowed by the trial Court. The said order was never challenged by the appellant-defendant. In any case, the trial Court was well within its right to grant time to the plaintiff to file the Court fee. This, in itself, would not act to the detriment of the plaintiff. Merely because Court fee was not deposited with the suit, would not mean that the plaintiff could not have advanced Rs.7 lakhs as loan.

10.3 Coming to the merits, the execution of the pronote was duly proved by the attesting witness, Parmesher Singh, who deposed as PW1 and the scribe, Pawan Kumar Goel, who deposed as PW-2. The trial Court laid stress on the point that Budh Singh had himself not stepped into the witness box. This was, however, rightly discarded by the first appellate Court since the deed writer and the attesting witness deposed about the execution of the pronote. Still further, it was the categorical case of the plaintiff that his son



Major Singh, who also held power of attorney of the plaintiff (Budh Singh), was also present and stepped into the witness box as PW-4. Merely because the attesting witness did not name Major Singh as having been present when the pronote was executed, would not cause a dent in the case of the plaintiff. It also came on record that Budh Singh was 80 years old at the time of evidence and was suffering from various ailments, including ailment of pelvic bone, because of which he had difficulty in walking. He had expired by the time the appeal was decided. Under the circumstances, no fault can be found in his examining Major Singh instead of himself stepping into the witness box. The defendant had raised a plea that the pronote and the receipt were forged and fabricated documents. Once the plaintiff had discharged the initial onus to prove the said documents by examining the attesting witness and the scribe, the onus shifted on the defendant to prove that the same were forged and fabricated documents. However, no evidence in the form of hand-writing expert etc. was led by the defendant to prove his contention.

11. In the considered opinion of this Court, the trial Court did not examine the matter from the correct perspective and dismissed the suit without recording any cogent reasons. On the other hand, the first appellate Court examined the matter from the correct perspective and returned findings, in according with law. I do not find any reason to interfere in the well reasoned findings recorded by the first appellate Court.

12. In view of the aforesaid facts and circumstances, the appeal is found to be bereft of merit, and, accordingly, stands dismissed.

**(VIKRAM AGGARWAL)**  
**JUDGE**

**September 22, 2025**

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