



In the High Court of Punjab and Haryana, at Chandigarh

Regular Second Appeal No. 5941 of 2019 (O&M)

Date of Decision: 26.03.2025

Babudeen

... Appellant(s)

Versus

Balbir

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Parveen Kumar and Mr. Abhimanyu Singh, Advocates
for the appellant(s).

Anil Kshetarpal, J.

1. The Regular Second Appeal in the States of Punjab, Haryana and Union Territory, Chandigarh is governed by Section 41 of the Punjab Courts Act, 1918 and not by Section 100 of the Code of Civil Procedure, 1908, as held by a five Judge Bench of the Supreme Court in *Pankajakshi (Dead) through LRs v. Chandrika and Others (2016) 6 SCC 157*.

2. This appeal is yet to be taken up for preliminary hearing, although, pending for the last six years. Every time when the case came up for hearing, the learned counsel representing the appellant sought adjournment which was granted. On 31.01.2023, the appeal was dismissed in default, but an application for restoration was filed, which was allowed.

3. The defendant assails the correctness of the concurrent findings of facts arrived at by both the Courts below.

4. The appeal has been filed along with an application for condonation of delay of 460 days. The appellant (defendant) was the owner

of a truck. He sold the same to the plaintiff by executing a receipt and a separate affidavit. However, the truck was not transferred in the name of the plaintiff as it was financed by the finance company. Subsequently, the appellant refused to transfer the truck. Hence, the suit was filed by the plaintiff, which was decreed.

5. The learned counsel representing the appellant submits that in the absence of the finance company, the suit could not be filed because the necessary party has not been impleaded. On a Court question as to how the finance company was a necessary party, the learned counsel representing the appellant has failed to give any plausible explanation.

6. Keeping in view the aforesaid facts, no ground is made out to interfere with the concurrent findings of facts arrived at by both the Courts below. Hence, the present appeal is dismissed.

7. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

March 26, 2025

“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No