



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

**RSA-3928-1998(O&M)
Date of decision:-02.07.2025**

Dhurav Chand Bansal (since deceased) through LRs

...Appellant

Versus

Brij Bhushan

...Respondent

CORAM : HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Yugank Goyal, Advocate
for the appellant.

Ms. Kamaldeep Kaur, Advocate and
Ms. Amandeep Kaur, Advocate
for the respondent.

SUVIR SEHGAL, J.(ORAL)

1. Aggrieved of finding recorded by First Appellate Court, appellant/defendant has approached this Court by way of instant second appeal.

2. Respondent/plaintiff filed a suit for recovery of Rs.26,000/- claiming that defendant had borrowed a sum of Rs.27,000/- from him in cash on 04.05.1989. He had executed a pronote as well as receipt and amount was repayable along with interest @ 1% per annum. Defendant repaid Rs.2,000/- on 04.08.1989, Rs.5,000/- on 15.04.1990 and Rs.1,000/- on 15.05.1990. The endorsement of return of Rs.8,000/- was duly made on the rear of the pronote. Balance amount along with interest is due to the plaintiff, which has not been repaid despite several



-2-

216

requests. A legal notice was sent to the defendant, but he evaded its service. Plaintiff has filed a suit for recovery of Rs.26,000/- and voluntarily relinquished claim for the balance amount. Upon being served, defendant contested the suit by filing a written statement denying that he had borrowed the amount or that he was liable to repay it along with interest. The execution of the pronote and receipt was specifically refuted. A stand was taken that the pronote and receipt are forged and fictitious documents. Defendant denied the repayment of Rs.8,000/-. Replication was filed by the plaintiff reasserting his stand. On the basis of the pleadings of the parties, Trial Court framed issues. After the parties led evidence and having heard counsel for the parties, Trial Court by judgment and decree dated 20.09.1997, dismissed the suit. Plaintiff filed an appeal, which was accepted by the First Appellate Court and learned District Judge, Faridabad, by impugned judgment dated 16.09.1998, decreed the suit, which has been challenged by the defendant in the instant appeal.

3. I have heard counsel for the parties and considered their respective submission besides analysing the requisitioned record with their able assistance.

4. During the course of their evidence, both the parties examined forensic experts to prove their case. Plaintiff examined PW1 Somnath Agarwal, Handwriting and Fingerprint Expert, who opined that pronote Ex.P1 and receipt Ex.P2 bear the signatures of the respondent. On the other hand, DW3 Kamalkant Khandelwal, Handwriting Expert



216

examined by the defendant stated that the signatures were not that of the appellant. Report Ex.DW3/11 submitted by DW3, however, cannot be relied upon as this expert has not compared the signatures on the documents with the signatures of the defendant taken in Court. In order to arrive at a just decision, the appellate Court in exercise of power under Section 73 of the Evidence Act, examined the disputed signatures of the defendant on Ex.P1 and Ex.P2 with his standard signatures and came to the conclusion that both the documents bear his signatures. Harish Chand Jain – DW1 an attesting witness has admitted that receipt Ex.PX has been signed by him. He also admitted that Sham Sunder Bansal, son of the defendant repaid the amount on the dates mentioned on the pronote and an amount of Rs.8,000/- was repaid to the plaintiff. The admission of DW1 supports the case of the plaintiff. In case the defendant had not received the advance, there was no occasion for repayment of the amount. In view of the clinching evidence, this Court does not find any infirmity or illegality in the finding recorded by the first appellate Court, which is affirmed.

5. Finding no merit in the appeal, it is dismissed with no order as to costs.

6. Pending miscellaneous application (s), if any, stand disposed off.

(SUVIR SEHGAL)
JUDGE

02.07.2025

Brij

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No