



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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RSA No.3959 of 2023 (O&M)

Date of Decision: 27.05.2025

M/s Krishan Chand Rajesh Kumar, Commission Agent, Anaj Mandi,
Basantpura and another

.....Appellants

Versus

Bhupinder Singh

..... Respondent

CORAM: HON'BLE MR.JUSTICE VIKRAM AGGARWAL

Present: Mr. Bhupinder Ghai, Advocate for the appellants.

Mr. HPS Ghuman, Advocate for the respondent.

VIKRAM AGGARWAL, J.:

This is defendants' second appeal against the judgment and decree dated 25.05.2023, passed by the Court of District Judge, Fatehgarh Sahib, dismissing the appeal filed by the appellants/defendants against the judgment and decree dated 23.09.2021, passed by the Court of Additional Civil Judge (Sr. Divn.), Fatehgarh Sahib, vide which the suit filed by the respondent-plaintiff for recovery of Rs.7,00,000/- was decreed.

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

3. Plaintiff (Bhupinder Singh) instituted a suit for recovery of Rs.7,00,000/- along with interest at the rate of 1.5% per month from 06.06.2015 till final realization on the basis of receipt dated 06.06.2015, issued by the defendants. It was pleaded that defendant No.1 (M/s Krishan Chand Rajesh Kumar) was a Commission Agent Firm working at Grain Market Basantpura, Tehsil Rajpura, District Fatehgarh Sahib. Defendant No.2 (Vinod



Kumar) was one of its partner. The defendants had obtained a sum of Rs. 7,00,000/- from the plaintiff on 06.06.2015. Repayment was assured along with interest at the rate of 1.5% per month. Receipt dated 06.06.2015 was issued on the letter pad of defendant No.1 in the presence of son of the plaintiff namely Baljinder Singh and one Balwinder Singh son of Jagir Singh. Despite repeated demands, the amount was not re-paid, as a result of which the suit was instituted.

4. The suit was opposed by the defendants.

5. In the written statement, certain preliminary objections as regards maintainability, concealment, *locus standi*, cause of action, estoppel etc. were raised. On merit, it was admitted that defendant No.1 was a Commission Agent Firm and Vinod Kumar was one of its partner and the said firm was doing its business at Grain Market Basantpura. As regards the sum of Rs. 7,00,000/-, it was averred that the said amount had already been re-paid and, therefore, nothing was due. The rate of interest at the rate of 1.5% per month was denied. The receipt dated 06.06.2015 was stated to be a forged and fabricated document, therefore, issuance of the same was denied.

It was also averred that an FIR No.103 dated 23.12.2015 was got registered at P.S. Sadar Rajpura, under Sections 420,406,409,120-B, 506 and 201 IPC against the defendants by one Hari Singh and the account books were taken into custody in the said FIR. All other averments were denied.

6. In the replication, the averments made in the written statement were denied and thus, made in the plaint were reiterated.

7. From the pleadings of the parties, following issues were framed by the trial Court:-

1. Whether plaintiff is entitled to recovery of Rs.7 lac along with interest



@ 1.5% per month as prayed for? OPP

2. Whether suit is not maintainable in the present form? OPD

3. Whether plaintiff has concealed the material facts from the Court?

OPD

4. Whether plaintiff is estopped by their own act and conduct from filing the present suit? OPD

5. Relief.

8. Parties led their respective evidence.

9. The trial Court dismissed the suit vide judgment and decree dated 23.09.2021 and the appeal preferred against the said judgment and decree was also dismissed on 25.05.2023, leading to the filing of the present second appeal.

10. I have heard learned counsel for the parties.

11. Shri Bhupinder Ghai, learned counsel representing the appellants made efforts to convince the Court that the judgments and decrees under challenge are not sustainable. He has referred to the findings recorded by both the Courts as also the oral and documentary evidence led on the record of the case and has submitted that the suit was erroneously decreed.

12. Per contra, Shri HPS Ghuman, learned counsel for the respondent-plaintiff submits that there is no illegality in the impugned judgment and decree and that no question of law arises for consideration of this Court. He submits that the execution of the receipt was duly proved. He further submits that though, a stand was taken in the written statement that a sum of Rs.7,00,000/- stood paid, no evidence was led to prove the same. He asserts that even the conduct of the appellants-defendants is such that they deserve to be granted no relief. It is submitted that after the order dated 04.01.2024 having been passed by the Co-ordinate Bench in the present appeal directing



the Executing Court to adjourn the execution petition beyond the date fixed by this Court and operation of the impugned judgments and decrees was ordered to be stayed on 27.05.2024, subject to the appellants furnishing adequate security of the decretal amount before the Executing Court, the said security was not furnished. As a result of the same, the interim directions were not extended as is evident from order dated 29.07.2024. Reference has also been made to the order dated 29.07.2024, wherein learned counsel for the appellants had submitted that he was ready for some settlement but the same was not acceded to since not even a single penny had been paid after passing of the impugned judgments and decrees. He submits that under the circumstances, the appeal deserves to be dismissed.

13. I have considered the submissions made by learned counsel for the parties and have perused the records.

14. Both the Courts concurrently found that execution of the receipt dated 06.06.2015 (Ex.P1) was duly proved. Apart from the plaintiff, who had stepped into the witness box as PW1, he also examined Baljinder Singh (PW3) and Balwinder Singh (PW4). Gurmeet Kaur, Handwriting and Fingerprint Expert (PW5) also stated that receipt had duly been executed by Vinod Kumar. On the contrary, the defendants did not produce any evidence to disprove the said fact. Apart from defendant No.2, who stepped into the witness box as DW1, no other evidence was produced that could have proved that the receipt had not been executed.

15. In fact, the defendants had pleaded in the written statement that the sum of Rs. 7,00,000/- had been re-paid. It, therefore, essentially means that the receipt of Rs.7,00,000/- was admitted. They also pleaded that the account books had been taken by the police in the FIR registered against them.



However, no effort was made to summon the said account books to prove that the amount had been re-paid. Both Courts, therefore, rightly found that the advancement of the amount duly stood proved and the re-payment thereof had not been proved. The suit was, therefore, rightly decreed and the appeal was also rightly dismissed. Pure findings of facts have been recorded by both Court which are not liable to be disturbed in second appeal. The findings are not found to be perverse nor has it been so argued.

16. No question of law, therefore, arises for consideration by this Court warranting interference in second appeal.

17. In view of the above, I do not find any merit in the present appeal and the same is accordingly dismissed.

Pending application(s), if any, stands disposed of accordingly.

(VIKRAM AGGARWAL)
JUDGE

27.05.2025

Manoj Bhutani

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