

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****130****RSA-702-2025(O&M)****Date of decision: 23.07.2025****Baldev Singh (now deceased) through LRs****...Appellant(s)****Vs.****Kuldeep Singh****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Sumeet Puri, Advocate
for the appellant (through VC).

*********NIDHI GUPTA, J.****CM-2485-C-2025**

Present application under Section 5 of Limitation Act, 1963 read with Section 151 CPC is filed seeking condonation of delay of 130 days in filing the present appeal.

After going through the contents of the application, which is supported by affidavit of the applicant, the same is allowed, subject to all just exceptions and delay of 130 days in filing the present appeal is condoned.

MAIN CASE

Present Second Appeal has been filed by the defendant through his Legal Heirs seeking setting aside of the concurrent judgments and decrees of the Id. Courts below whereby suit for recovery of Rs.2,50,000/- filed by the plaintiff/respondent herein, has been decreed by both the Courts below.

2. Brief facts of the case are that the father of the appellants namely Baldev Singh had borrowed a sum of Rs.2,50,000/- from the plaintiff on 12.10.2018 with the promise to return the same after 2 months. After 2



months, the defendant had issued a cheque No.000047 dated 12.12.2018 which was dishonoured with the remarks “*Exceeds Arrangements (Over line)*” vide memo dated 13.12.2018. The defendant thereafter assured the plaintiff that he will pay the cheque amount within 15 days. However, Baldev Singh expired on 05.01.2019. The plaintiff had sent a legal notice dated 08.01.2019 to his LRs requesting them to make good the payment of the cheque amount but in vain. Accordingly, the plaintiff had filed the suit on 30.01.2019. Vide judgment and decree dated 05.07.2023, the learned trial Court had decreed the suit of the plaintiff. The appeal filed by the appellants was dismissed by the learned First Appellate Court vide judgment and decree dated 12.07.2024. Hence, present Second Appeal.

3. It is inter alia submitted by learned counsel for the appellants/defendant that the learned Courts below were in patent error in decreeing the suit of the plaintiff as they failed to appreciate that the alleged cheque is forged and fabricated. It is submitted that no such cheque was issued by Baldev Singh. It is further submitted that the deceased Baldev Singh owned 8 acres of land and was also having a pig farm, fish farm and other valuable movable and immovable property in his name. As such, there was no requirement for him to borrow any amount from the plaintiff as alleged. It is submitted that from the said facts, it is clearly established that the cheque produced by the plaintiff was a forged and fabricated document. However, this fact has not been appreciated by the learned Courts below in decreeing the suit of the plaintiff. Lastly, it is submitted that all the issues No.3 to 6 have been disposed of together by the learned trial Court which is not permitted as per law. Therefore, impugned judgments suffer from material error. Learned counsel accordingly prays that the present appeal be allowed and the impugned judgments and decrees be set aside.

4. No other argument is made on behalf of the appellant.



5. I have heard learned counsel and perused the case file in detail. I find no merit in the submissions made on behalf of the appellant.
6. It is contended by the appellants that the cheque No.000047 dated 12.12.2018 worth Rs.2,50,000/- issued by Baldev Singh from his account maintained in HDFC Bank, Branch Dhuri, was a forged and fabricated document. However, the LRs of deceased Baldev Singh did not examine any bank official to prove the said assertion that the said cheque was forged and fabricated. On the other hand, plaintiff had examined PW3 Assistant Manager, HDFC Bank, Branch Dhuri who had brought the summoned record, and duly identified the signatures of Baldev Singh on the said cheque (Ex.P2); and also proved the Memo dated 13.12.2018 (Ex.P3) issued by their Bank. PW3 also proved the account statement of Baldev Singh (Ex.P1).
7. Even further, Sapinder Singh LR No.(ii) in his testimony as DW1 has admitted in his cross-examination that the account of his father was joint with his brother Harjinder Singh and that the same was being used by Baldev Singh. Thus, cheque was issued by joint account of deceased defendant and his LR. Therefore, plea of forgery and fabrication is not sustainable on this account as well.
8. It was further found that the LRs of the defendant were having knowledge about the borrowed amount and issuance of cheque by defendant to the plaintiff as DW1 in his cross-examination has even admitted receiving the legal notice. DW1 has further admitted that the LRs had never moved any application before any Authority or the Police regarding fabrication of the above-said cheque. Thus, merely making a bald statement that the cheque was a forged and fabricated document, would not make it so. Moreover, as noted above plaintiff witnesses produced by the plaintiff had duly proved the cheque.
9. As regards the contention of the appellants that defendant had sufficient land in his favour and had no requirement to borrow the money,



no evidence is produced to show that defendant was owner of the said 8 acres of land etc.

10. In view of the above, present appeal is **dismissed**.
11. Pending application(s) if any also stand(s) disposed of.

23.07.2025

Sunena

(Nidhi Gupta)

Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No