

(2012) 03 P&H CK 0150

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Revision No. 1886 of 2012

Tarsem Chand

APPELLANT

Vs

Bhag Chand

RESPONDENT

Date of Decision: March 26, 2012

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - Section 102, 151
- Constitution of India, 1950 - Article 227

Hon'ble Judges: L.N. Mittal, J

Bench: Single Bench

Advocate: A.P. Kaushal, for Mr. K.S. Saini, for the Appellant;

Final Decision: Dismissed

Judgement

L.N. Mittal, J.

Defendant Tarsem Singh, who has named himself somewhere as Tarsem Chand and somewhere as Tarsem Singh in the revision petition, has filed this revision petition under Article 227 of the Constitution of India thereby challenging judgments and decrees of both the courts below whereby suit of plaintiff-respondent Bhag Chand against defendant-petitioner has been decreed. Respondent plaintiff Bhag Chand filed suit against Tarsem Singh defendant (petitioner herein) for recovery of Rs 24,600/- alleging that the petitioner borrowed Rs 16,000/- from the plaintiff on 6.3.2004 for repair of his tractor and agreed to repay the same with interest @ 24% per annum and executed pronote and receipt for the same but the defendant - respondent failed to pay anything either towards principal or towards interest. Accordingly, the plaintiff claimed Rs 16,000/- as principal amount and Rs 8640/- as interest till filing of the suit.

2. The defendant denied the plaintiff's averments. The defendant denied having borrowed any amount from the plaintiff or having executed any pronote or receipt. The defendant alleged that his name is Tarsem Chand and he never used his name

as Tarsem Singh. The defendant alleged that he is employee of Bhakhra Beas Management Board (BBMB) and thus is government employee and not a farmer and therefore, he had no occasion to raise loan for repair of tractor as alleged by the plaintiff. Various other pleas were also raised.

3. Learned Civil Judge (Junior Division), Anandpur Sahib vide judgment and decree dated 24.8.2011 (Annexure P/1) decreed the plaintiff's suit for recovery of principal amount of Rs 16,000/- with interest @ 9% per annum from the date of pronote till date of decree and future interest @ 6% per annum from the date of decree till recovery. First appeal preferred by defendant against judgment and decree of the trial court has been dismissed by learned Additional District Judge, Adhoc (Fast Track Court), Rupnagar vide judgment and decree dated 21.11.2011 (Annexure P/2). Since regular second appeal does not lie in view of section 102 of the CPC because subject matter of the original suit for recovery of money did not exceed Rs 25,000/- , the defendant has filed this revision petition under Article 227 of the Constitution of India to assail the judgments and decrees of the courts below.

4. I have heard learned counsel for the petitioner and perused the case file.

5. The plaintiff in order to prove his case himself stepped into witness box and examined scribe as well as one attesting witness of impugned pronote-cum-receipt. All of them stated accordingly the plaintiff's version.

6. On the other hand, there is solitary oral statement of defendant. The said statement is not sufficient to rebut the cogent evidence led by the plaintiff to prove his case. It may be added that the impugned pronote-cum-receipt purports to bear note only the signatures of defendant but also his thumb impressions. Science of comparison of thumb impressions is perfect science. However, in spite thereof, the defendant did not take the trouble to get his alleged thumb impressions on impugned pronote-cum-receipt compared with his specimen thumb impressions to depict that he had not executed the impugned pronote-cum-receipt. On the contrary, plaintiff has led cogent evidence by examining scribe as well as one attesting witness of the pronote-cum-receipt besides himself stepping into witness box. Self serving bald and oral statement of the defendant is not sufficient to discredit the plaintiff's cogent and reliable evidence.

7. Counsel for the petitioner contended that name of the defendant - petitioner is Tarsem Chand and not Tarsem Singh in which name the impugned pronote-cum-receipt was allegedly executed and the defendant has been sued. The contention cannot be accepted. Even in the instant revision petition, defendant has mentioned himself as Tarsem Singh in some of the papers i.e. index, paper bearing court fee as well as in miscellaneous application u/s 151 CPC. Thus, the defendant himself is confused about his real name being Tarsem Chand or Tarsem Singh and therefore, the plaintiff could not know that defendant's real name is Tarsem Chand and not Tarsem Singh. It may also be added that another civil suit is pending against

defendant as Tarsem Singh filed by one Om Parkash. It, thus, appears that the defendant mentioned himself as Tarsem Singh also although his real name may also be Tarsem Chand. There is also no cogent material on record to depict that real name of defendant is Tarsem Chand and not Tarsem Singh.

8. Both the courts below have recorded concurrent finding in favour of plaintiff and the said finding is supported by cogent reasons. The said finding is not shown to be perverse or illegal or based on misreading or misappreciation of evidence not the said finding suffers from any jurisdictional error. On the contrary, the said finding is the only reasonable finding that can be arrived at on the basis of evidence adduced by both the parties. Consequently, the said finding does not warrant any interference.

9. It may be added that even in regular second appeal, scope for interference is limited to substantial question of law. In revisional jurisdiction under Article 227 of the Constitution of India, scope of interference is further limited as compared to scope for interference in regular second appeal. In the instant case, no interference would have been warranted even in exercise of second appellate jurisdiction because no question of law, much less substantial question of law, arises for adjudication in this lis. Consequently, there is no scope for interference in exercise of revisional jurisdiction. The revision petition is, thus, found to be meritless and is therefore, dismissed in limine.