

Gopal Singh Vs Balwinder Singh

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Feb. 26, 2014

Citation: (2014) 3 RCR(Civil) 571

Hon'ble Judges: Rakesh Kumar Jain, J

Bench: Single Bench

Advocate: J.S. Brar, Advocate for the Appellant; Navdeep Chhabra, Advocate for the Respondent

Final Decision: Dismissed

Judgement

Rakesh Kumar Jain, J.

The plaintiff filed suit for recovery alleging that the defendant had borrowed a sum of Rs. 1,50,000/- from him after

executing a pro-note and receipt on 23.02.2005 in the presence of the marginal witnesses and agreed to repay it along with interest @ 2% per

month. The defendant has urged that he had taken 8 killas of land on Batai from the plaintiff with an understanding that the plaintiff would incur half

share of the expenses and would get half share of the crops. It was further alleged that on the asking of the plaintiff, the defendant started dealing

with the commission agent Ashok Kumar leaving the shop of his own commission agent Krishan Lal @ Gora, New Grain Market, Muktsar. He

had to pay Rs. 12,000/- to Krishan Lal which were paid through the plaintiff and at that time, the plaintiff got his signatures on some blank pro-

note and receipt. He denied that he had borrowed Rs. 1,50,000/- from the plaintiff on 23.02.2005. The Trial Court decreed the suit for recovery

of Rs. 1,75,500/- with costs. The plaintiff was also held entitled to pendente lite interest @ 12% per annum and future interest @ 6% per annum.

The interest was recoverable on the principal amount of Rs. 1,50,000/- only. The appeal of the defendant was also dismissed but with a

modification in the rate of interest only as the rate of interest from 12% per annum was reduced to 9% per annum to be paid by the defendant on

the principal amount of Rs. 1,50,000/- w.e.f. 23.02.2005 till the date of decision of the suit i.e. 23.03.2009 and the future interest @ 6% per

annum was also held payable only on the principal amount of Rs. 1,50,000/-.

2. Counsel for the appellant-defendant has submitted that he had also filed an application before the Trial Court that his signatures were taken by

the plaintiff on blank pro-note and receipt in the year 2001 which has been fabricated as a pro-note (Ex.P1) and receipt (Ex.P2) in the year 2005.

It was prayed that the age of the revenue stamps affixed on Ex.P1 and Ex.P2 be got verified from the Government Security Press, Nasik, which

would establish that the revenue stamps bearing signatures of the defendant is of the year 2001. The said application was contested and dismissed

by the Trial Court on 23.01.2009, which was not allegedly dealt with by the lower Appellate Court, though the said order was alleged to have

been challenged before it.

3. Precisely on this matter, notice of motion was issued by this Court.

4. Counsel for the appellant-defendant has argued further that the signatures of the defendant were obtained on the blank pro-note and receipt in

the year 2001 which were later on converted to be a pro-note and receipt (Ex.P1 & Ex.P2) of the year 2005. It is submitted that if the age of the

revenue stamps is ascertained from the Government Security Press, Nasik, then it would be easily found out as to whether the said receipt is of the

year 2001 or of 2005 and if it is found that the receipt is of the year 2001, then it would be proved that his signatures were taken in the year 2001

on the blank pro-note and receipt. In support of his submission, he has relied upon various judgments of this Court in the cases of Nirbhai Singh

Vs. Gurvinder Singh and Others Joginder Singh v. Balwinder Kaur and others, 1996 (2) R.R.R. 232 and Hari Chand Vs. Avtar Singh,

5. On the other hand, counsel for the respondent-plaintiff has submitted that the determination of age of the revenue stamps from the Government

Security Press, Nasik would not improve the case of the defendant because it is alleged that the stamp is of the year 2001, whereas the pro-note

and receipt were executed in the year 2005 and even if, it is found by the Government Security Press that the revenue stamps were actually of the

year 2001, still they could be used in the year 2005 as there is no such bar. In this regard, he has relied upon a decision of this Court in the case of

Nachhattar Singh Vs. Hari Chand,

6. I have heard learned counsel for the parties and examined the record.

7. The defendant has not denied that he had signed Ex.P1 and Ex.P2, rather his case is that pro-note (Ex.P1) and receipt (Ex.P2) were signed by

him in the year 2001 when they were blank and the plaintiff has filled up the blank portions of pro-note and receipt in the year 2005 and has

committed a fraud. It is submitted that had the age of the revenue stamps been determined, as prayed by him before the Trial Court, it might have

proved that the stamps were of the year 2001 and he had signed the said stamps in 2001 when the pro-note and receipt were blank.

8. The argument raised by counsel for the appellant is totally misconceived and ill-founded. Even if, presuming for the sake of arguments, the

stamps are of the year 2001, there is no bar in law shown by the defendant that the said stamps could not have been used in the year 2005. It

would have been altogether a different matter if the plaintiff had used later stamps on a previously executed pro-note, as held by this Court in

Nirbhai Singh's case (supra), or the stamps used are of the lesser value.

9. In Nirbhai Singh's case (supra), the Court had found that the stamps affixed on the pro-note and receipt dated 30.09.2001 were of 20 Paise,

whereas after the amendment in the year 1994, revenue stamp of Rs. 1/- was required to be used. Thus, prima facie case was made out for the

purpose of examination of the age of the stamp. In the said case, it was also observed that had it been a plea of the defendant that later stamps

have been used on a previously executed pro-note, then it would have called for an examination by the Government Security Press, Nasik, to

determine the age of the stamp, but here is a case in which the defendant himself has alleged that the stamps are of the year 2001 and the pro-note

and receipt are of 2005, for which there is no legal bar, as held in Nachhattar Singh's case (supra), in using the stamp of the earlier date for

executing a pro-note or any such document.

10. Insofar as the decisions in Joginder Singh's case (supra) and Hari Chand's case (supra) are concerned, those are also not supporting the case

of the defendant.

11. No other point has been raised.

12. In view of the aforesaid discussion, neither I found any error in the judgment and decree of the Courts below nor any question of law muchless

substantial involved in the present appeal. Dismissed.