

(2011) 04 DEL CK 0162

Delhi High Court

Case No: Regular Second Appeal No. 61 of 2011 and CM No's. 7020-21 of 2011

Shri Vinay Shraff

APPELLANT

Vs

Smt. Deepika Jain

RESPONDENT

Date of Decision: April 6, 2011

Hon'ble Judges: Indermeet Kaur, J

Bench: Single Bench

Advocate: Pusshp Gupta, for the Appellant; Nemo, for the Respondent

Final Decision: Dismissed

Judgement

Indermeet Kaur, J.

This appeal has impugned the judgment and decree dated 17.02.2011 which had endorsed the findings of the trial Judge dated 26.05.2009 whereby the suit filed by the Plaintiff seeking recovery of money against the Defendant in the sum of Rs. 30,496/- had been decreed. The suit had been decreed for a sum of Rs. 12,476/- along with interest.

2. This is a second appeal. On behalf of the Appellant, it has been urged that Ex. PW-1/B upon which reliance has been placed upon by the impugned judgment was a forged and fabricated document and this was the clear defence of the Defendant/Appellant all along; the impugned judgment having relied upon this document without considering the contention of the Defendant amounts to a perversity. This vital document did not find mention in the plaint and has been misconstrued.

3. The case of the Plaintiff as is evident is that the parties i.e. the Plaintiff and the Defendant were having business dealings. In lieu of aforementioned business transactions, the Defendant had issued four cheques to the Plaintiff amounting to Rs. 19,803/-; on presentation three of the aforementioned cheques were dishonoured. Legal notice was served upon the Defendant. Payment was not made. Suit was accordingly filed.

4. The defence of the Defendant was that they had no business dealings; no amount was payable.

5. On the pleadings of the parties, five issues were framed. Oral and documentary evidence was led. On the basis of oral and documentary evidence which included the bills Ex. PW-1/A & Ex. PW-1/B, the suit of the Plaintiff had been decreed in the aforementioned amount. Testimony of PW-1 has been adverted to. The aforementioned documents had been proved through the testimony of PW-1. The impugned judgment had correctly noted that no suggestion has been given to PW-1 that Ex. PW-1/B was either a forged or a fabricated document or that it has not signed by the employee of the Defendant at point "X" or that in fact he had no such employee. Testimony of PW-1 had been relied upon. Both the concurrent findings had returned a positive conclusion that the goods had been received by the Defendant against the invoice Ex. PW-1/B. There is no perversity in this finding.

6. Substantial questions of law have been embodied on page 4 of the body of the appeal. No such substantial question of law has arisen. This Court is not a third fact finding court. There is no merit in this appeal. Appeal as also pending applications are dismissed in limine.