

Regular Second Appeal No. 1367 of 2011 (O&M).

**IN THE HIGH COURT FOR THE STATES OF PUNJAB & HARYANA
AT CHANDIGARH**

...

Date of Decision: March 29, 2011.

Regular Second Appeal No. 1367 of 2011 (O&M).

Shanti Devi

... Appellant

VERSUS

State Bank of India and another

... Respondents

CORAM : HON'BLE MR.JUSTICE MOHINDER PAL.

1. Whether Reporters of Local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest ?

**Present: Mr.Alok Jain, Advocate,
for the appellant.**

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MOHINDER PAL, J.

Civil Misc. No.3828-C of 2011.

For the reasons stated in the application, which is supported by an affidavit, the same is allowed and the delay in filing the instant appeal is condoned.

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The instant suit was filed by the State Bank of India-

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respondent No.1 herein (hereinafter referred to as 'the plaintiff-Bank') against Shanti Devi (appellant-defendant No.2) and Ishwar Chand (defendant No.1-respondent No.2) for recovery of Rs.4,55,531/-.

The defendant-respondent No.2 had taken a loan of Rs.4,50,000/- from the plaintiff-Bank for purchase of a Tata Truck 2213 (LPT). The defendant-appellant, who is mother of the defendant-respondent No.2, had stood guarantee for the said loan. The defendant-respondent No.2 defaulted in making timely payments of the due instalments. The loan was to be repaid in 60 monthly instalments of Rs.7500/- each plus interest.

After framing issues on the pleadings of the parties, recording their evidence and hearing their learned counsel, the trial Court, vide judgment and decree dated 22.1.2007 passed a preliminary decree in favour of the plaintiff-Bank for recovery of Rs.4,55,531/- from the defendants. The plaintiff-bank was also held entitled to interest at the rate of 6 per cent per annum from the date of filing of the suit till the realization of the aforesaid amount. The defendants, who were held liable to pay the decretal amount jointly and severally, were allowed six months' time from the date of the judgment and decree by the trial Court i.e 22.1.2007 to deposit or repay the decretal amount, failing which the plaintiff-Bank was held entitled to move the Court for final decree.



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Aggrieved against the judgment and decree passed by

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the trial Court, the defendant-appellant went in appeal before the lower appellate Court. However, the said appeal of the defendant-appellant was dismissed by the lower appellate Court vide judgment and decree dated 24.5.2010.

The defendant-appellant is now in second appeal aggrieved against the judgments and decrees passed by both the Courts below.

It is a concurrent finding of both the Courts below that ~~that~~ documents Exhibits P.6, P.7 and P.9 with regard to the loan in favour of the defendant-respondent No.2 had been executed on 10.8.1994. The revival letter Exhibit P.16 also proves that the loan amount had been acknowledged by the defendants before the expiry of three years i.e on 19.5.1997. The plaintiff-Bank proved on record statement of account (Exhibit P.1) showing the due amount against the defendants. Ishwar Chand (defendant-respondent No.2), who had taken the loan in question, appeared in the witness box as D.W.3 and admitted the factum of loan, but denied that he had signed the documents of loan. He admitted that he could sign in English. A qualified person will not sign the documents before the Bank without knowing their import. It has been held by both the Courts, by appraising the evidence on record, that it was defendant-respondent No.2 who had taken the loan in question and the defendant-appellant had stood guarantee for repayment of the said



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The findings recorded by both the Courts below are the

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findings of fact. It could not be pointed out by the learned counsel for the defendant-appellant that such findings are based on misreading of evidence or that material evidence has not been taken into consideration.

Under the circumstances, I do not find any patent illegality or irregularity in the findings recorded by the Courts below, which may give rise to any substantial question of law in the present appeal. Resultantly, this appeal is hereby dismissed being without any merit.

"Sd/-"

**(MOHINDER PAL)
JUDGE**

March 29, 2011.
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PUNJAB AND HARYANA HIGH COURT



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