(1983) 09 P&H CK 0055

In the Punjab And Haryana At Chandigarh

Case No : Regular Second Appeal No. 1470 of 1975

Bant Singh APPELLANT

Vs

Nahar Singh RESPONDENT

Date of Decision : 20-09-1983

Acts Referred:

Citation : (1984) PLJ 47 : (1984) RRR 249

Hon'ble Judges : J.V.Gupta, J

Advocate : Mr. Naginder Singh, Advocate., Advocates for appearing Parties

Judgement

J.V. Gupta, J

1. This is defendant''s second appeal against whom suit for recovery of Rs. 3,042/ has been decreed by both the courts below.

2. The plaintiffrespondent filed the suit for the recovery of Rs. 3,484/, i.e. Rs. 2,600/ as principal and Rs. 884/ as interest alleging that he is a registered money lender and is doing money lending business since long. DefendantBant Singh borrowed a sum of Rs. 2,600/ from him and executed a promissory note stipulating to pay back the loan with interest at the rate of Re. 1/ per cent per month. Since the defendant failed to pay the amount, hence the present suit.

3. The suit was contested interalia on the ground that the defendant did not borrow the amount as alleged nor did he execute the promissory note or receipt in favour of the plaintiff. It was further pleaded that the plaintiff was not entitled to any amount by way of interest because he failed to comply with the provisions of Punjab Regulation of Accounts Act, 1930.

4. The trial court found that the defendants did execute the pronote dated 16.2.1970 and the receipt in consideration of Rs. 2,600/. As regards the amount of interest, the trial court found that admittedly the plaintiff is a registered money lander and he has also not led any evidence to the effect that he has complied with the requirements of section 3(a) and 3(b) of the said Act.

However, the plaintiff has been able to prove that the defendant has agreed to pay interest at the rate of 12 per cent per annum but in view of the fact that he failed to comply with the provisions of section 3 of the Regulation of Accounts Act, he allowed interest at the rate of 6 per cent per annum amounting to Rs. 442/ for the period claimed in the suit. Consequently, the plaintiff''s suit was decreed for a sum of Rs. 3,042/.

5. In appeal, the learned Additional District Judge affirmed the said findings of the trial court and thus maintained the decree, passed in favour of the plaintiff. Dissatisfied with the same, the defendant has come up in second appeal in this court.

6. At the time of motion hearing, it was contended that the plaintiff respondent is not entitled to any interest under section 4 of the Punjab Regulation of Accounts Act as the provisions of section 3(b) of the Act were not complied with. The same argument has been raised on behalf of the appellant at the time of the final hearing. According to the learned counsel, section 4(c) of the Act provides:

" If the court finds that the provisions of clause (b) of subsection (1) of section 3 have not been complied with by the creditor, the court shall in computing the amount of interest due upon the loan exclude every period for which the creditor omitted duly to furnish the account as required by clause (b) of subsection (1) of section 3.....".

7. After hearing the learned counsel for the parties, I find force in the contention raised on behalf of the appellant. It is not disputed that the creditor did not furnish every six monthly account signed by the creditor as provided by subsection (1) clause (b) of sections 3 of the Act. If that is not complied with, the effect is given in clause (c) of section 4 as observed earlier. In view of the said provision, there is no escape and the creditor plaintiff is not entitled to the interest due upon the loan for the period for which the creditor omitted to furnish the account as required by clause (b) of subsection (1) of section 3 of the Act. Both the courts below have failed to take into consideration the provisions of subclause(c) of section 4 of the Act. In this view of the matter, this appeal partly succeeds and the judgement and decree passed by the trial court is modified to the extent that the plaintiff is not entitled to any interest on the principal amount of Rs. 2,600/. The net result is that the plaintiff''s suit stands decreed for Rs. 2,600/ only. However,there is no order as to costs.

Appeal partly accepted.

