(1976) 09 P&H CK 0007

In the Punjab And Haryana At Chandigarh

Case No : Civil Revision No. 1379 of 1975

sic)Rm Gobind Ram Dayal Dass and Company Yamunanagar and others — APPELLANT

Vs

Sita Devi Alias Sita Rani Saluja — RESPONDENT

Date of Decision : 20-09-1976

Acts Referred:

Citation : (1976) 09 P&H CK 0007

Hon'ble Judges : R.S. Narula, J

Bench : Single Bench

Advocate : S.K. Goyal, for the Appellant; M.L. Sarin and Mr. H.L. Sarin, for the Respondent

Final Decision : Allowed

Judgement

R.S. Narula, C.J.—In a suit filed by the Plaintiff Respondent for the recovery of Rs. 3,680/ on the basis of a promisory note said to have been executed by Sant Ram, Defendant No. 3, on behalf of Defendant No. 1 firm, it was alleged that a sum of Rs. 2,500/- had been lent and the promisory note in dispute had been executed by the Defendant by way of collateral security. The allegation about the promisory note having been executed as collateral security was specifically dented in the written statement and it was pleaded that the promisory note was on the basis of the loan. That point does not, however, appear to have been pressed into issue by either of the parties and as to what would be its effects, is not for me to pronounce upon at this stage The main plea on which good deal of emphasis was laid in the written statement was that the promisory note when executed bore only one revenue stamp of 10 Naya paise and that the Plaintiff or somebody on her behalf or in her interest had subsequently affixed the second revenue stamp on the promisory note. In a situation of that type the Defendants'' allegation is that the alleged subsequently affixed revenue stamp might have been issued by the Government Security Printing Press, Nasik, after the execution of the promisory note in dispute. The Defendants, therefore, made an application to the trial Court to send the original pronote to the Master, Government Security Printing Press, Nasik, to obtain his expert opinion about the dates on which each of the two revenue stamps affixed on the pronote, had been issued from the Government Security Printing Press, Nasik. That application was turned down by the trial Court in its order Inder revision on three grounds, namely, (1) "It hardly matters as to whether the pronote was not sufficiently stamped at the time of execution because the receipt of the amount has been admitted ;" (2) "Moreover no law has been cited under which the pronote in dispute can be sent to Master, Security Printing Press, Nasik, for seeking his opinion regarding the date of issuance of the aforesaid revenue stamps:" (3) "The proper procedure was to get the commission appointed for that purpose."

2. The reference to the admission of the receipt of the amount is to the statement of Hari I am, Defendant No. 2 (a partner of Defendant No. 1 firm) recorded by the trial Court before the issues were framed, wherein he had admitted that the pronote appeared to have been signed by his brother Sant Ram and had clearly admitted that the Defendants had taken a loan of Rs. 2,500/- from the Plaintiff-Respondent but has alleged its repayment.

3. After hearing the Learned Counsel for the parties. I find that none of three grounds on which the application or the Defendant-Petitioner; was turned down by the learned Subordinate Judge, is supportable in law. Even the learned senior counsel for the Plaintiff Respondent could not controvert the proposition that an insufficiently stamped pronote is not admissible in evidence. The Courts have gone to the length of holding that where the promisory note at the time of its execution is under-stamped, no decree can be passed on its basis as it is not admissible in evidence, even if the Defendant otherwise admits his liability. The opinion of the Master. Government Security Printing Press, Nasik, is admissible in evidence and there is not other way of proving that a particular revenue stamp had or had not been issued by the Government Security Printing Press. Nasik, which prints them, before a particular date except by obtaining his opinion. There is no question of a commission being appointed for that purpose. The normal procedure, however, is to send the documents, on which the disputed stamp is affixed, to the Master, Government Security Printing Press Nasik ; and to seek his opinion because that press maintains authenticated records of the difference which are made in the strips and stripes etc. of the revenue stamps from time to time and of the dates on which a fresh series of revenue stamps is issued from the Government Security Printing Press, Nasik, it may not be possible to say whether a revenue stamp of a particular series could or could not be available in the market or at a particular station at any particular time it it bad been issued from the Press before the relevant date, but it needs no argument to affirm that a revenue stamp could not be in existence before it was issued from the Press. It is only to that extent that the opinion of the Master, Government Security Printing Press, Nasik, can be relevant and useful.

4. In the plaint, an allegation had been made that a sum of Rs. 2500/- had been

lent to the Defendant Petitioners and the promisory note executed was merely by way of collateral security. That plea, as already observed above has been specifically denied by the Defendants Whether the pica has any effect on the merits of the controversy or not and what is the effect of the plea not having been pressed into issue by either of the parties in the trial Court, would if necessary be decided by the trial Court at the proper stage. In either case, it is necessary to obtain the opinion relating to the validity of the revenue stamp alleged to have been subsequently affixed on the pronote in dispute.

5. For the foregoing reasons, I allow this petition, set aside the order of the trial Court, dated May 26, 1975, allow the application of the Defendant-Petitioners, and direct that the promisory note in question with the disputed revenue stamps on it, shall be sent to the Master, Government Security Printing Press, Nasik, in a sealed cover which can be got signed from the counsel of both the sides at the time of putting the pronote in it, for obtaining his opinion about the date or dates on which the two revenue stamps in question were printed by the press and first issued for sale to the public It will be open to the trial Court to decide all other matters in accordance with law after receipt of the opinion from the Government Security Printing Press, Nasik. The parties are left to bear their own costs of this petition. They are directed through their counsel to appear before the trial Court on October 11, 1976.

