

Jit Singh v. Nachhatar Singh, 2007 PLRonline 0103
(ID# 214001)

PUNJAB AND HARYANA HIGH COURT

Before:- Satish Kumar Mittal, J.

Jit Singh – Appellant

Versus

Nachhatar Singh and others – Respondents

Regular Second Appeal No. 2933 of 2003.

4.5.2007.

Negotiable Instruments Act, Section 118(a) - Plaintiff has proved that the pronote and receipt were duly executed in accordance with law - Presumption under Section 118(a) of the NIA Act for passing of the consideration arises and the defendant can rebut that presumption by leading evidence - Defendant did not lead any evidence to show that the alleged documents were forged and fabricated or to the effect that no consideration was passed at the time of execution of the pronote and receipt - Proved that the defendant executed these documents after receiving the consideration - Plaintiff is not further required to prove his capacity to make the said payment at the time of execution of the pronote and receipt. [Para 4]

Case Referred :-

1. *Santa Singh v. Arjan Singh, 1992(2) Recent Revenue Report 195.*

For the Appellant :- Mr. Harsh Aggarwal, Advocate. For the Respondents :- Mr. B.S. Sidhu, Advocate.

JUDGMENT

Satish Kumar Mittal, J. – Defendant Jit Singh has filed this Regular Second Appeal against the judgments and decree passed by both the courts below, whereby suit of the respondent-

plaintiff has been decreed for the recovery of Rs. 99,000/- along with interest at the rate of 12% per annum from the date of execution of the pronote Ex.P1 and receipt Ex.P2 till the date of decree and at the rate of 6% per annum from the date of decree till the realisation of the principal sum.

2. In this written statement, the appellant-defendant took the stand that he neither borrowed any amount from the respondent-plaintiff nor executed any pronote and receipt in his favour. It was averred that the alleged pronote and receipt are forged and fabricated documents, which do not bear signatures of the appellant-defendant. It was also pleaded that plaintiff Jagroop Singh (now deceased) was not in a position to lend such a huge amount to the appellant-defendant.

3. Both the courts below have recorded a finding of fact that the plaintiff has duly proved the execution of pronote Ex.P1 and receipt Ex.P2 by examining PW.1 Surinder Kumar, Document Writer, who has categorically stated that after receiving the loan amount of Rs. 99,000/- from Jagroop Singh plaintiff, the appellant-defendant executed the pronote and receipt. PW.2 Angrej Singh and PW.3 Gurcharan Singh are the marginal witnesses of these documents. Both of them have consistently deposed that the appellant-defendant after receiving the loan amount of Rs. 99,000/- from Jagroop Singh plaintiff signed the aforesaid documents. In order to prove the signatures of the appellant-defendant on the pronote and receipt, the plaintiff examined Navdeep Gupta, the Handwriting and Finger Print Expert, who categorically proved that signatures on the pronote Ex.P1 and receipt Ex.P2 are of the appellant-defendant. Thus, by proving the execution of the pronote and receipt as well as the fact that those documents were executed after receiving the consideration, burden shifts on the defendant to prove that the aforesaid documents were executed without consideration. In this case, defendant has failed to prove his plea that these documents were forged and fabricated.

4. Counsel for the appellant-defendant, while referring to the judgment of this Court in **Santa Singh v. Arjan Singh**, 1992(2) Recent Revenue Report 195, contends that in this case, the plaintiff has not proved that he was in capacity to make the payment of Rs. 99,000/- at the time of execution of pronote and receipt. In my opinion, once the plaintiff has proved that the pronote and receipt were duly executed in accordance with law, then presumption under Section 118(a) of the Negotiable Instruments Act for passing of the consideration arises and the defendant can rebut that presumption by leading evidence. In this case, defendant did not lead any evidence either to show that the alleged documents were forged and fabricated or to the effect that no consideration was passed at the time of execution of the pronote and receipt, but it has also been proved that the defendant executed these documents after receiving the consideration of Rs. 99,000/-. In such a situation, in my opinion, the plaintiff is not further required to prove his capacity to make the said payment at the time of execution of the pronote and receipt. The judgment relied upon by counsel for the appellant is not applicable to the facts and circumstances of this

case. I do not find any illegality or infirmity in the impugned judgments and decree, passed by both the courts below.

5. No substantial question of law is either involved in this appeal or has been raised by counsel for the appellant.

Dismissed.

Appeal dismissed.