

**In the Court of Ms. Harjinder Kaur, PCS,
Civil Judge (Junior Division), Khanna. (UID-PB0502).**

Filing No.846 Dated 18.10.2022

CIS No.CS-560-2022

CNR No. PBLDA0-000785-2022

Decided on: 19.01.2023

Sardara Singh son of Sh. Kartar Singh, resident of House No.46, New Bank Colony, Khanna, Tehsil Khanna, District Ludhiana.

.....**Plaintiff.**

Versus

1. Dalvir Singh son of Rachan Singh son of Hira Singh,
2. Harvinder Singh son of Rachan Singh son of Hira Singh, residents of Village Rasutra, Tehsil Khanna, District Ludhiana, both partners of M/s New Kissan Trading Company at Shop no.47, Grain Market Khanna.

.....**Defendants.**

Suit for the Recovery of Rs.4,49,935/- (Rupees Four Lakh Forty Nine Thousand Nine Hundred Thirty Five only) i.e. Rs.3,13,000/- (Rupees Three Lakh Thirteen Thousand Only) as principal amount and Rs.1,36,935/- (Rupees One Lakh Thirty Six Thousand Nine Hundred Thirty Five only) as interest calculated from the period 01.11.2019 to 30.09.2022 @ 1.25% per month, on the basis of the oral and documentary evidence.

Present: Sh.Amandeep Singh, Advocate for the plaintiff.
Defendants ex-parte.

JUDGMENT:

1. This is a suit for recovery of Rs.4,49,935/-.

2. The brief and relevant facts of instant suit, which are necessary for its disposal, as per the version of plaintiff are that the defendants are running a shop of commission agents in partnership and defendants had cordial friendly relations with the plaintiff from the last five years and thus the defendants in the year 2019 requested the plaintiff that the defendants is in need of Rs.3,13,000/- for their business purpose and promised to return the said amount to the plaintiff within 8-9 months. The plaintiff advanced an amount of Rs.3,13,000/- to defendants in presence of his friend Ram Murti Sharma at the shop of defendants where son of defendant no.1 Kiranveer Singh was also present. Out of Rs.3,13,000/-, the currency notes of Rs.2,00,000/- were counted by defendant no.2 whereas the currency notes of Rs.1,13,000/- were counted by Kiranvir Singh and to this effect the defendants issued a receipt dated 01.11.2019 on the letter pad of his firm by acknowledging Rs.3,13,000/- received by defendants from plaintiff on interest @ 1.25% per month and the above said receipt was signed by defendant no.1 by putting the stamp of New Kisan Trading Company being its partner. After few months, plaintiff requested the defendants to return the amount of Rs.3,13,000/- along with interest, but the defendants started putting the matter on one pretext or the other and ultimately defendants refused to pay any amount to the plaintiff out of the above said amount, then finally on 01.03.2021 plaintiff along with above said Ram Murti Sharma went to the shop of defendants where Lovepreet Singh son of defendant no.2 and Kiranvir Singh son of defendant

no.1 met to the plaintiff. The plaintiff requested them to return the amount of plaintiff, who started misbehaving and abusing the plaintiff and said Ram Murti Sharma and started threatening them for dire consequences. The plaintiff moved an application to the SSP, Khanna on 18.03.2021 against the defendants, Lovepreet Singh, Kiranvir Singh and the clerk of defendants namely Gurpreet Singh and police summoned both the parties. The defendants in a very clever mind firstly filed the false and baseless civil suits against the plaintiff and Ram Murti Sharma and thereafter appeared before the police authorities and made statement that they have filed civil suits on 25.03.2021 against the plaintiff and Ram Murti Sharma and defendant will comply with the orders passed by the Hon'ble Court. The defendants in connivance with each other and in connivance with others, cheated and defrauded with the plaintiff by hatching a criminal conspiracy and grabbed his amount. The plaintiff is entitled to recover an amount of Rs.4,49,435/- from the defendants. The plaintiff various times requested the defendants to pay back the outstanding amount with interest but the defendants turned a deaf ear. There is no suit between the parties to the suits or between the parties under whom the parties claim, litigating on the same grounds or subject matter has been previously instituted or finally decided by a court of competent jurisdiction or limited jurisdiction except the above mentioned proceedings. The above mentioned facts thus given a cause of action to the plaintiff to file the present suit against the defendants. Hence, the instant suit.

3. Notice of the suit was served upon defendants but defendants failed to appear before the court and thereafter, the defendants were proceeded against ex-parte.

4. In order to prove his case, the plaintiff himself examined as PW1 Sardara Singh son of Kartar Singh, who tendered into evidence his duly sworn and attested affidavit Ex.PW1/A and also reiterated the version of his plaint through his affidavit.

5. Further, the plaintiff has examined PW2 Ram Murti Sharma son of late Sh.Om Parkash, resident of Jain School Wali Gali, Amloh Road, Khanna, Tehsil Khanna, District Ludhiana, who tendered into evidence his duly sworn affidavit Ex.PW2/B and deposed on the lines of the averments of the plaint. He also proved on record documents i.e. receipt dated 01.11.2019 is Ex.P1, certified copy of application dated 01.04.2021 is Ex.P2, photocopy of Transfer deed is Ex.P3, certified copy of statement of Sardara Singh is Ex.P4, photocopy of Aadhar card of Sardara Singh is Ex.P5, photocopy of driving license of Ram Murti is Ex.P6.

6. Thereafter, plaintiff closed his ex-parte evidence, vide separate statement.

7. The counsel for the plaintiff has argued that the present suit has been filed by the plaintiff for recovery of Rs.4,49,935/- on the basis of oral & documentary evidence. The learned counsel for plaintiff further argued that the defendants have taken Rs.3,13,000/- for their business and agreed to pay interest @ 1.25% per month. The learned counsel for plaintiff argued that the defendants took amount

of Rs.3,13,000/- as per receipt dated 01.11.2019. He has further argued that he demanded number of times the abovesaid amount from the defendants but they paid no heed. He has prayed that suit of the plaintiff is liable to be decreed.

8. I have heard learned counsel for the plaintiff and with his able assistance have gone through the case file.

9. This court has observed that the present suit has been filed by the plaintiff for recovery of Rs.4,49,935/- on the basis of oral & documentary evidence. In order to prove his case, the plaintiff Lakhvir Singh has examined himself as PW1, who reiterated the version of the plaint through affidavit Ex.PW1/A on oath which need not be reproduced for the sake of brevity. Thereafter, the plaintiff has examined PW2 Ram Murti Sharma, who also deposed on the averments of plaint through his affidavit Ex.PW2/B. He also proved on record documents i.e. receipt dated 01.11.2019 is Ex.P1, certified copy of application dated 01.04.2021 is Ex.P2, photocopy of Transfer deed is Ex.P3, certified copy of statement of Sardara Singh is Ex.P4, photocopy of Aadhar card of Sardara Singh is Ex.P5, photocopy of driving license of Ram Murti is Ex.P6 respectively. This court has observed that the plaintiff has proved his case by oral as well as documentary evidence whereas the defendants were duly served but despite service they did not appear and proceeded against ex-parte. As there is no evidence on behalf of defendants to rebut the case of plaintiff, the evidence produced by plaintiff goes un-rebutted. The defendants despite opportunity did not come present to rebut the claim of the plaintiffs

and willfully absented from the court and to take any kind of stand before the court, meaning thereby, defendants have nothing to say in response to the pleadings and the case set out by the plaintiff with respect to recovery of amount. All the documentary evidence clearly proves the amount is due as claimed in the suit against the defendants. The plaintiff has claimed the amount of Rs.4,49,935/- (Rupees Four Lakh Forty Nine Thousand Nine Hundred Thirty Five only) i.e. Rs.3,13,000/- (Rupees Three Lakh Thirteen Thousand Only) as principal amount and Rs.1,36,935/- (Rupees One Lakh Thirty Six Thousand Nine Hundred Thirty Five only) as interest calculated from the period 01.11.2019 to 30.09.2022 @ 1.25% per month, on the basis of the oral and documentary evidence. Therefore, the plaintiff has fully proved his case by oral as well documentary evidence.

10. In view of the above facts and circumstances, the suit of the plaintiff succeeds and same is hereby decreed ex-parte for recovery of amount i.e. Rs.3,13,000/- from defendants alongwith interest at the rate of 9% per annum from 01.11.2019 to till the date of decree and future interest till realization @ 6% per annum. However, three months time is hereby given to the defendants from the date of passing of decree to make the payment of the decretal amount to the plaintiff. Decree sheet be prepared accordingly. File be consigned to the Record Room.

Pronounced in open Court:-

Dated: 19.01.2023.

Ravinder Singh, Sg-II.

Directly dictated.

(Harjinder Kaur), PCS,
Civil Judge (Junior Division)
Khanna.(UID-PB0502).