

A

GURMUKH SINGH

v.

JASWANT KAUR

(Civil Appeal No. 5140 of 2004)

B

APRIL 04, 2011

**[MARKANDEY KATJU AND GYAN SUDHA MISRA, JJ.]**

C

*Suit – Suit for recovery – Execution of pronote and receipt by the respondent in favour of the appellant – Failure of the respondent to repay the amount – Suit filed by the appellant for recovery of the amount – Rejected by all three the courts below on the finding that the documents were not duly stamped and that the stamps affixed on the pronote were removed from another document – Interference with – Held: Findings of the courts below are findings of fact and cannot be interfered with – The pronote in question cannot be taken into consideration – Indian Stamps Act, 1899.*

D

E

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 5140 of 2004.

F

From the Judgment & Order dated 11.8.2003 of the High Court of Punjab & Haryana at Chandigarh in RSA No. 1069 of 2002.

A.V. Palli, Rekha Palli for the Appellant.

K.G. Bhagat, Manju Bhagat, Dr. Manohar Singh Bakshi, Vineet Bhagat, Debasis Misra for the Respondent.

G

The Judgment of the Court was delivered by

**MARKANDEY KATJU, J. 1.** This appeal has been filed against the judgment and order dated 11.8.2003 in R.S.A. No.1069 of 2002 of the High Court of Punjab and Haryana at Chandigarh.

H

2. Heard learned counsel for the parties and perused the record. A

3. The plaintiff-appellant had filed a suit for recovery of Rs.2,31,000/-. He claimed that the defendant had executed a pronote and receipt dated 2.5.1994 whereby the defendant had borrowed a sum of Rs.1,50,000/- from the plaintiff and agreed to repay the same along with interest @ 2% per annum on demand. Since the defendant had not paid the aforesaid amount, the suit was filed. B

4. The defendant-respondent contested the suit and denied the execution of the pronote and receipt in favour of the plaintiff. She alleged that the aforesaid pronote and receipt were forged and fictitious documents. C

5. The trial court on the basis of evidence found that the pronote and receipt were executed by the defendant in favour of the plaintiff. However, the trial court rejected the plaintiff's claim by holding that the said documents were not duly stamped as required under the provisions of Indian Stamps Act. It was found by the trial court that the stamps which were affixed on the pronote were removed from another document and affixed on the said pronote. D  
E

6. The first appellate court and the High Court have agreed with the view of the trial court. Thus all the three courts below decided against the appellant. F

7. The findings of the courts below are findings of fact and we cannot interfere with the same in this appeal. The finding is that the stamps which have been affixed were removed from other documents, and hence, it has rightly been said that such a pronote cannot be taken into consideration. G

8. Thus there is no force in this appeal and it is dismissed. No costs.

N.J.

Appeal dismissed. H