

Ram Lal Vs. Laxmi Lal

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Court : Rajasthan Jodhpur

Decided On : Dec-02-2015

Appellant : Ram Lal

Respondent : Laxmi Lal

Judgement :

S.B. Civil First Appeal No.130/1989 Ram Lal Vs. Laxmi Lal Order, Wednesday, 02/12/2015. 1 of 5 IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR ::

ORDER

:: S.B. Civil First Appeal No.130/1989 Ram Lal S/o Sh. Onkar, by caste Sharol Vs. Laxmi Lal S/o Madhav Lal Mehta Date of Order ::: Wednesday, 02nd December 2015. PRESENT HON'BLE Dr. JUSTICE VINEET KOTHARI Mr. D.D. Thanvi, for the appellant/defendant None present for the respondent/plaintiff. -- BY THE COURT (ORAL):- 1. The defendant/appellant has filed the present first appeal against the money decree of the learned trial court dated 30.08.1989 in a Suit No.123/1984- Laxmi Lal Vs. Ram Lal, to the extent of Rs.10,000/- with 6% interest the present money decree, giving the following findings in favour of plaintiff/respondent: - " \$ \$ (2 - 0 - . 3 6 S.B. Civil First Appeal No.130/1989 Ram Lal Vs. Laxmi Lal Order, Wednesday, 02/12/2015. 2 of 5 < - .3 6 6 ((- , - C ((0 (- - .3 \$ K \$ 2500-2500 - 6 .3 - (1000 10.3.82 1000 - (1000 5000 \$ O C \$ P 5000 < R 4000 5000 R < (1000 O - 4000 < - < - S , -, C (- < (- S - U C - < S - S.B. Civil

First Appeal No.130/1989 Ram Lal Vs. Laxmi Lal Order, Wednesday, 02/12/2015. 3 of 5 10,000 (\$ - < (1750 - 1750 6 10,000 (- 5000 5000 ((C (6 6 (- - (C 6 < 6 < C 1750 : (<]. - <\$ < - S.B. Civil First Appeal No.130/1989 Ram Lal Vs. Laxmi Lal Order, Wednesday, 02/12/2015. 4 of 5 : 10,000 3825 (6) 13,785 (- 10,000 P 6% \$ 6 \$ <\$ 6 \$ P\$ <\$ 30.8.89 (Sd/- (<) C , " 2. Mr. D.D. Thanvi, learned counsel for the appellant/defendant fairly submitted that though purchase of the goods appears to have been made by the defendant from the evidence on record in the form of bills, however, the claim made in the plaint that a sum of Rs.5,000/- was advanced as cash loan after the said sales, for which no documentary evidence was led by the plaintiff/appellant, nor the plaintiff could properly prove such an advance of Rs.5,000/- to the defendant, and therefore, the present appeal of defendant deserves to be allowed at least to the extent of supply of cash advance alleged to have been given by the plaintiff.

3. None has appeared on behalf of respondent/plaintiff despite service though names of Mr. G. Vaishnav and Mr. R. Choudhan, are shown in the cause list.

4. Having heard the learned counsel for the appellant/defendant, and having gone through the impugned order S.B. Civil First Appeal No.130/1989 Ram Lal Vs. Laxmi Lal Order, Wednesday, 02/12/2015. 5 of 5 and record, it appears to this Court that the claim made by the plaintiff to the extent of cash advance of Rs.5,000/-, for which no documentary evidence was led by the plaintiff/respondent to justify such claim is not well proved. However, the goods sold by the plaintiff/respondent to the defendant/appellant during the course of business for which proper invoices/bills were also raised and were produced in support of his claim, seems to be justified and well proved.

5. Therefore, in the opinion of this Court, the present appeal of the appellant/defendant deserves to be partly allowed and the decree to the extent of Rs.5,000/- for the goods sold, to him and the principal sum of Rs.5,000/- with 6% simple interest p.a. deserves to be granted while the decree to the extent of alleged advance of Rs.5,000/- along with interest thereon for making claim of Rs.13,825/- in the plaint is not justified.

6. Accordingly, the present first appeal is partly allowed and the decree for the sum of Rs.5000/- from the date of sale of goods viz. 25.05.1982 with simple interest @ 6% p.a. is granted. No costs. Decree be made accordingly. No costs. A copy of this order be sent to the concerned parties and the court below forthwith. (Dr. VINEET KOTHARI), J.

DJ/- 41

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