



2026:DHC:3090



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Reserved on: 29th January, 2026*

Pronounced on: 15th April, 2026

+ **RFA 35/2022**

1. **SMT. LAXMI RAWAT**
W/o Sh. Dinesh Singh Rawat

2. **SH. DINESH SINGH RAWAT**
S/o Sh. D. S. Rawat

BOTH R/O
102-B, Pocket A-3, Mayur Vihar,
Phase-3, Delhi.

.....Appellants

Through: Mr. V. V. Singh, Advocate.

versus

SH. DAULAT SINGH BISHT
S/o late Sh. Hira Singh Bisht,
R/O 128-A, Pocket. A-3, Mayur Vihar,
Phase-3, Delhi.

.....Respondent

Through: Appearance not given.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. Appeal under Section 96 of CPC, has been filed on behalf of the Appellants against Judgement and Decree dated 01.12.2021, whereby, learned ADJ has decreed the Suit of the Plaintiff / Respondent for a sum of Rs.6,00,000/- along with interest @ 6% per annum, from the date of filing of the Suit till realisation of the decretal amount, with costs.



2. Plaintiff / Respondent has filed Civil Suit bearing No.31/2019 under Order XXXVII of the CPC for recovery of Rs.6,00,000/-.
3. **The facts in brief**, as narrated in the Plaint, were that Defendant No.1 Smt. Lakshmi Rawat and her husband, Sh. Dinesh Singh Rawat @ Bheji (Defendant No.2) were doing the business of transportation and were having 20 cars, tempo- travellers and buses. The Defendants had bookings for their aforesaid vehicles with the customers on daily basis, in any part of the country and earned huge amounts from their business.
4. The Plaintiff was known to the Defendants, since the year 1998. In the first week of July 2016, Plaintiff was approached by the Defendants, for loan. Considering their poor financial conditions, the Plaintiff gave the loan of Rs.6,00,000/-, out of which Rs.5,00,000/- were given by the Plaintiff in cash from his own money, while Rs.1,00,000/- had been taken from his friends and given to the Defendant, on 10.07.2016.
5. On the instructions of Defendant No.2, Defendant No.1 issued a post-dated cheque dated 16.08.2016 for Rs.6,00,000/- and assured that on presentation, the cheque would be encashed.
6. On 16.08.2016, Defendant No.1 requested the Plaintiff not to present the cheque. After some time, Defendant No.2 met the Plaintiff and made the similar request. After passing of sufficient time, Plaintiff came to know about the cunning and cheating behaviour of the Defendants.
7. On 28.03.2018, at about 10:30 P.M., a quarrel took place between the families of both the parties, near the house of the Plaintiff. A Complaint dated 30.03.2018 was made by the Plaintiff to the Police Station, for safety of himself family members. No action was taken by the Police. Later, Police



tried to get the matter settled between the parties and co-ordinal relations got established.

8. On 30.04.2017, as per the instructions of Defendant No.2, Defendant No.1 issued another post-dated cheque dated 14.08.2018 for Rs.6,00,000/- and previous cheque was returned. The cheque was presented on 14.08.2018 but was returned unpaid on 30.08.2018 with the remarks 'Account closed'.

9. The Plaintiff immediately informed the Defendants, but they did not Reply. He sent a Legal Notice to the Defendants, which was served upon them on 27.08.2018, to which they gave a vague Reply dated 01.09.2018.

10. The Plaintiff filed a Complaint No.3994/2018 under Section 138, The Negotiable Instruments Act, 1881 before the Court of learned MM, where it is pending trial.

11. The Plaintiff thus, filed a Suit for recovery of Rs.6,00,000/- along with *pendente lite* and future interest at the rate of 18% per annum, under Order XXXVII of CPC.

12. The Application under Order XXXVII Rule 3(5) of CPC was filed by the Defendants, for **leave to defend the case.**

13. The Defendant No.1 **Smt. Laxmi Rawat** took a defence that they had nothing to do with the alleged transaction, especially Defendant No.2. Moreover, Defendant No.1 denied that any cheque was given to the Plaintiff, at any point of time.

14. Defendants asserted that Plaintiff was never known or close to them and they have never obtained any amount as loan from him. It was denied that Plaintiff was not entitled to the recovery of amount of Rs.6,00,000/-.

15. **Defendant No.1 Smt. Laxmi Rawat** further stated that on 05.07.2016, some criminal lady had entered their house and sedated her. Consequently,



she lost her consciousness and does not remember what happened thereafter, with her on that day. She found herself in unconscious state, at Santoshi Mata Mandir in Pushp Vihar, Delhi.

16. She further asserted that after this incident, she remained unconscious and in depression for a long period of time and got the treatment done by doctor. She, therefore, could not have made any request for giving Rs.6,00,000/-, as has been alleged by the Plaintiff / Respondent.

17. It was further claimed that in the said incident, criminal lady had stolen some clothes, jewellery and a bag, which contained some signed cheques, including the cheque in question, Pan Card and some cash. The incident was reported to *PS Ashok Nagar, Delhi on 09.07.2016*. The Cheques were signed, but the contents had not been filled up by Defendant No.1.

18. Further, it was denied that Defendant No.1 had committed any act of cheating or any quarrel took place on 28.03.2018. She admitted that Plaintiff has filed false Complaint under Section 138, NI Act based on that stolen cheque. It was thus, submitted that Defendants were entitled to leave to defend the Suit.

19. ***Defendant No.2 Sh. Dinesh Singh Rawat @ Bheji***, on his Affidavit, has also taken similar defence.

20. **Learned ADJ** considered the defence of the Appellants / Defendants and observed that no prudent person would keep several signed blank cheques and if she does so, it is on her own peril. Admittedly, cheques had the signatures of Defendant No.1 Smt. Laxmi Rawat, which was not disputed. The said cheque on presentation, got dishonoured. ***Hence, it was held that there was no defence disclosed in the leave to defend Application***



and it was dismissed. Suit of the Plaintiff / Respondent was, accordingly, decreed for Rs.6,00,000/- along with interest @ 6% per annum.

21. Aggrieved by the said Judgment, **present Appeal has been filed**. The **grounds of challenge** are that learned Trial Court has not considered that the Plaintiff / Respondent is not a man of means and he himself has stated in his Plaint that he had arranged the money by borrowing it, from some other persons. There is no documentary proof of alleged payment of Rs.6,00,000/- to the Appellants / Defendants.

22. Moreover, cheque was signed only by Defendant No.1 / Appellant No.1 / Smt. Laxmi Rawat and Appellant / Defendant No.2 Sh. Dinesh Rawat has nothing to do with this cheque.

23. It has also not been considered that the Complaint dated 09.07.2016 had been lodged about the incident of theft and the cheque has been one of those, which had been stolen. Defendant / Appellant No.1 / Smt. Laxmi Rawat could not request for loan or to issue any cheque, because of her medical condition and her medical treatment record, has not been considered. Hence, the impugned Judgment is liable to be set aside.

Submissions heard and record perused.

24. Suit for recovery of Rs.6,00,000/- of the Plaintiff / Respondent is based on the cheque dated 14.08.2018, which had been issued by Appellant No.1 Smt. Laxmi Rawat. Plaintiff had explained in detail that alleged loan amount of Rs.6,00,000/- had been given in cash to the Defendants on 10.07.2016 and in lieu of which, first cheque dated 05.07.2016 had been issued by Appellant No.1/ Smt. Laxmi Rawat. However, because of repeated request by the Defendants / Appellants, the cheque was not presented for encashment. Finally, on 14.08.2018, a new cheque was given, while the



previous cheque had been taken. However, this cheque on presentation, got dishonoured.

25. Appellants have taken the defence that the alleged loan was not taken by them. It was further asserted that an incident had happened in the house of Appellants on 05.07.2016, when a lady had entered their house and committed theft of a bag containing clothes, cheques, etc. Appellant No.1 claimed that she became unconscious and had health issues and could not ask for any loan.

26. The incident is alleged to be of 2016, while the second cheque has been given on 14.08.2018, from which it is clearly and blatantly evident that this defence of the cheque having been stolen in 2016 and presented in 2018, is nothing but an afterthought, in order to wriggle out of the cheque of Rs.6,00,000/- dated 14.08.2018, that was issued under the signatures of Appellant No.1.

27. Learned ADJ has rightly observed that it has become a trend to claim that the cheque was stolen, whenever a person is confronted with a Suit for Recovery based on a dishonoured cheque. The defence, as taken by the Appellants, has no basis.

28. Moreover, it cannot be overlooked that the impugned cheque had been issued by Appellant No.1/Smt. Laxmi Rawat and the Complaint under Section 138 NI Act has also been filed against her.

29. The second aspect for consideration, is the contention of the Appellant No.2 Dinesh Singh Rawat, that while the Plaintiff had claimed that both the defendants had jointly approached the Plaintiff / Respondent for the loan and it was given jointly, but there is no cogent evidence to this



regard. It is a Suit under Order XXXVII CPC based on a document, which is executed by Appellant No.1.

30. It has been rightly contended by the Appellant No.2 that aside from bald assertion that both the Appellants had jointly taken loan, There is no evidence whatsoever, to show that the loan was jointly taken. This assertion has merit as the Cheque on both the occasions, had been given by Appellant No.1 Laxmi Rawat. There is no cause of action disclosed against Defendant No.2. Hence, it is held that the Appellant No.2, Sh. Dinesh Rawat is not liable for the recovery. ***Therefore, his leave to defend of the Appellant No.2 is allowed and the Suit for Recovery is dismissed against him.***

31. However, the Decree against Appellant No.1 Smt. Lakshmi Rawat is upheld.

32. **Appeal is, accordingly, partly allowed and the Suit is dismissed against Appellant No.2 but the decree is upheld against Appellant No1.**

33. The pending Applications are disposed of, accordingly.

**(NEENA BANSAL KRISHNA)
JUDGE**

APRIL 15, 2026/R