



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

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*Judgment Reserved on: 7<sup>th</sup> January, 2026*  
*Judgment pronounced on: 29<sup>th</sup> January, 2026*

+ **RFA 1003/2019, CM APPL. 50426/2019, CM APPL. 54558/2019**  
**& CM APPL. 27979/2025**

RENU MATHUR & ORS

.....Appellants

Through: Mr. Jai Sahai Endlaw, Mr. Nitin  
Kumar & Ms. Shruti Kapur,  
Advocates.

versus

RAMESH CHANDER GUPTA

.....Respondent

Through: Mr. Sachin Gupta and Ms. Mahima  
Chanchalani, Advocates.

**CORAM:**

**HON'BLE MR. JUSTICE AMIT BANSAL**

### **JUDGMENT**

**AMIT BANSAL, J.**

1. The present appeal has been filed under Section 96 of the Civil Procedure Code, 1908 ('CPC') read with Order XLI Rule 1 of the CPC impugning the judgment and decree dated 3<sup>rd</sup> September, 2019 passed by the Additional District Judge, Patiala House Courts, New Delhi in CS No. 59187/2016 ('impugned judgment').

2. By the impugned judgment, the Trial Court has passed a decree of Rs. 50 lakhs in favour of the plaintiff along with future interest at the rate of 12% per annum.



3. The plaintiff has also filed cross objections to the extent that the Trial Court has erred in not granting *pendente lite* interest as well as the costs of the suit.

4. This Court *vide* order dated 22<sup>nd</sup> November, 2019, directed the appellants/defendants to deposit the 2/3<sup>rd</sup> of the decretal amount in the Court which was to be kept in an interest-bearing FDR. Further, *vide* order dated 21<sup>st</sup> February, 2024, this Court directed release of 50% of the deposited amount in favour of the respondent/plaintiff subject to respondent/plaintiff furnishing a personal undertaking.

5. Parties in the present appeal shall be hereinafter referred to as per the nomenclature in the Trial Court. The appellants shall hereinafter be referred to as 'defendants' and the respondent shall hereinafter be referred to as 'plaintiff'.

#### **PROCEEDINGS BEFORE THE TRIAL COURT**

6. The case set up by the plaintiff before the Trial Court was as under:

6.1 The defendants are the legal heirs of late Sh. Rakesh Bahadur Mathur (hereinafter referred as 'Sh. Rakesh Mathur').

6.2 The plaintiff and Sh. Rakesh Mathur were neighbours and later became friends. Sh. Rakesh Mathur had sold a portion of his property to the plaintiff's wife in 2012.

6.3 Sh. Rakesh Mathur was into property dealings and sought financial help from the plaintiff.

6.4 The plaintiff extended an interest-free friendly loan of Rs.50 lakhs to Sh. Rakesh Mathur over a period from July, 2013 to August, 2014 by way of



cheques as well as cash.

6.5 Sh. Rakesh Mathur executed two promissory notes totalling to Rs.50 lakh in favour of the plaintiff and also issued five undated cheques, totalling Rs.50 lakhs.

6.6 Sh. Rakesh Mathur passed away on 26<sup>th</sup> July, 2015 and defendants, who are the legal heirs of late Sh. Rakesh Mathur inherited movable and immovable properties belonging to him.

6.7 Since the aforesaid loan amount was not returned to the plaintiff by the defendants, a legal notice dated 11<sup>th</sup> September 2015 was served by the plaintiff on the defendants. However, the defendants failed to make the due payment. Accordingly, the present suit was filed by the plaintiff seeking recovery of Rs.50 lakhs.

7. The case set up by the defendants in the written statement is as under:

7.1 The defendants have admitted that Sh. Rakesh Mathur sold a portion of the property bearing no. A-1, Vasant Kunj, New Delhi to the wife of the plaintiff. It is also admitted that the plaintiff and Sh. Rakesh Mathur were neighbours.

7.2 The defendants have denied the fact that Sh. Rakesh Mathur had sought any financial help from the plaintiff or that the plaintiff advanced a loan of Rs.50 lakhs to him.

7.3 The defendants have denied issuance of promissory notes or undated cheques by Sh. Rakesh Mathur to the plaintiff. It is stated that the promissory notes and the cheques are forged and fabricated and have been manipulated to make out a case of loan of Rs.50 lakhs allegedly advanced by the plaintiff to Sh. Rakesh Mathur.



7.4 In the first promissory note of Rs.45 lakhs, it is not mentioned whether the sum of Rs.45 lakhs was paid in cash or by cheque. Further, the cheque numbers are also not mentioned in the said promissory note. There is no record of advancement of Rs.29.5 lakhs in cash to Rakesh Mathur.

7.5 The plaintiff has not explained as to why Sh. Rakesh Mathur issued four cheques and not a single cheque and why the name of the payee has been left blank.

8. Replication was filed on behalf of the plaintiff to the aforesaid written statement wherein it was explained that since the loan was advanced to Sh. Rakesh Mathur from 23<sup>rd</sup> July, 2013 to 1<sup>st</sup> September, 2013, a promissory note dated 1<sup>st</sup> September, 2013 was issued for the consolidated amount. It is further stated that the amount of cash or cheques were not mentioned on the promissory note as there were multiple transactions and it was a friendly note.

9. Based on the pleadings of the parties, the following issues were framed:

*“1. Whether plaintiff is entitled to recovery of Rs.50 Lacs along with penalty and future interest @ 18% p.a.? OPP*

*2. Relief.”*

10. Evidence was led on behalf of both sides. Four witnesses deposed on behalf of the plaintiff whereas on behalf of the defendants, defendant no.2/Sh. Ujjwal Mathur being the son of late Sh. Mathur appeared as the only witness.



### **FINDINGS OF THE TRIAL COURT**

11. The Trial Court decreed the suit in favour of the plaintiff for a sum of Rs.50 lakhs along with future interest at rate of 12% per annum, holding that:

- i. The five cheques handed over by late Sh. Rakesh Mathur to the plaintiff being undated would not amount to bills of exchange, however, would have corroborative value.
- ii. The defendants had not denied the signatures of late Sh. Rakesh Mathur on these cheques. Nor have the defendants produced any evidence to show that signatures of late Sh. Rakesh Mathur on these five cheques were forged or that the handwriting on the five cheques was not his.
- iii. The plaintiff duly summoned a witness from the Bank of late Sh. Rakesh Mathur to prove the signatures on the cheque. By comparing the signatures produced by the Bank, the signatures on the cheques were held to be authentic.
- iv. The defendants have failed to explain as to how the aforesaid cheques came into the possession of the plaintiff if they were not handed over by Sh. Rakesh Mathur to the plaintiff. It was not the case of the defendants that the said cheques were stolen by the plaintiff.
- v. The defendants have failed to produce the counterfoils of these cheques.

12. In respect of the two promissory notes, the Trial Court held that:

- i. The promissory notes bear the signatures of Rakesh Mathur.
- ii. The discrepancies pointed out by the defendants on the promissory notes are not material.



iii. Both the promissory notes are valid promissory notes in the eyes of law.

iv. There is no pleading in the written statement specifically stating that handwriting of late Sh. Rakesh Mathur on the promissory notes was forged or that the signatures were forged. Nor have the defendants made any efforts to disprove the handwriting or the signatures of late Rakesh Mathur.

#### **SUBMISSIONS ON BEHALF OF THE PARTIES**

13. Mr. Jai Sahai Endlaw, counsel appearing on behalf of the appellants/defendants has made the following submissions:

13.1 The two promissory notes do not reflect the individual transactions and are in respect of a consolidated amount of Rs.45 lakhs and Rs. 5 lakhs, respectively.

13.2 There are no witnesses to the two promissory notes.

13.3 The five cheques allegedly issued by the late Sh. Rakesh Mathur to the plaintiff are undated and do not mention the name of the payee.

13.4 The plaintiff has failed to produce any receipts in respect of the cash amounts given by the plaintiff to late Sh. Rakesh Mathur. The plaintiff has only placed proof in respect of a cheque of Rs.16.5 lakhs received by the defendant.

13.5 The onus to show that the promissory notes and the cheques bore the signatures of late Sh. Rakesh Mathur and also had his handwriting was on the plaintiff and the onus could not have been shifted on the defendants.

13.6 A wrong finding has been returned on behalf of the Trial Court that the defendants had not denied the signatures or the handwriting of late Sh.



Rakesh Mathur on the cheques/promissory notes.

14. *Per contra*, Mr. Sachin Gupta, counsel appearing on behalf of the respondent/plaintiff has submitted that there is no infirmity in the order passed by the Trial Court. The Trial Court has carefully analysed the evidence placed on record on behalf of the parties and came to the correct conclusion and decreed the suit in favour of the plaintiff.

15. In support of the cross objections filed on behalf of the plaintiff, it is submitted that there is no justification for the Trial Court in not granting *pendente lite* interest in favour of the plaintiff. Even though the plaintiff was not seeking any interest under the promissory notes, it was entitled to *pendente lite* interest from the date of institution of the suit till the suit was decreed.

16. Mr. Gupta also presses for costs of the suit including the amount paid to the Local Commissioner for recording evidence in the suit. In this regard, reliance is placed on the order passed in the suit on 26<sup>th</sup> July 2016.

#### **ANALYSIS AND FINDINGS**

17. I have heard the counsel for the parties and examined the Trial Court record filed by the parties.

18. In my view, the Trial Court has correctly come to the conclusion that the two promissory notes dated 1<sup>st</sup> September, 2013 and 22<sup>nd</sup> August, 2014 are valid promissory notes as they bear the signatures of late Sh. Rakesh Mathur and the names of both the parties, *i.e.* the lender (the promisee) and the borrower (the promisor) are recorded therein. The Trial Court has correctly held that the discrepancies pointed out by the defendants in the two



promissory notes are not material.

19. The Trial Court has also correctly held that there was no pleading by the defendants in the written statement that the handwriting and/or signatures of late Sh. Rakesh Mathur on the promissory notes were forged. Nor was any evidence laid on behalf of the defendants to disprove the handwriting/ signatures of late Sh. Mathur on the said promissory notes.

20. The Trial Court has also correctly come to the conclusion that even though the five cheques in question would not amount to bills of exchange since they were undated and the names of the payees were blank, the said cheques would have corroborative value since the total amount of the five cheques was Rs.50 lakhs which is also the total amount mentioned in the two promissory notes.

21. The Trial Court has rightly held that the plaintiff has duly proved the signatures and/or handwriting of the plaintiff on the cheques by summoning the record from late Sh. Rakesh Mathur's bank. The defendants did not lead any evidence to show that the signature/handwriting on the cheques was not that of late Sh. Rakesh Mathur. In this regard, Mr. Gupta has drawn attention of the Court to the evidence of the defendant's witness ('DW-1') recorded before the Local Commissioner wherein the DW-1 was asked to produce documents which would contain the signatures of late Sh. Rakesh Mathur. Relevant extracts from the cross-examination of the DW-1 is set out below:

*" Q 101. Can you produce the counterfoils of the earlier cheque books other than the; one surrendered to the bank?*

*Ans. I cannot say with certainty without checking for those old cheque books.*

*Q 102. Can you produce the income tax returns, statements of accounts containing balance sheet and profit and loss account from the year 2012*





*till the demise of your father?*

*Ans. I will check with my CA.*

*Q 103. Can you produce documents in the handwriting of your father or bearing signatures of your father?*

*Ans. I will check if available."*

22. On the next date of hearing before the Local Commissioner on 7<sup>th</sup> June 2017, DW-1 made a statement that the counterfoils of the chequebooks are not available and that he could not trace any documents which bore the signatures of late Sh. Rakesh Mathur.

*"Q104. Have you brought the documents asked to you on the LDOH?*

*Ans. I have brought certain documents i.e. ITR of Late Rakesh Bahadur Mathur in respect of assessment year 2:013-14, 2014-15, 2015-16 along with computation sheets, income and expenditure accounts and balance sheets for the respective assessment years. **However the counterfoils of the cheque books are not available and missing from my records, I could not trace any documents in the handwriting of my father or any documents bearing the signature of ray father.** Also there are no other statements of accounts available except the annexure already brought to the court....*

*Q105. I put to you that you are deliberately not producing the counterfoils of the previous cheque books due to the reason that it has been specifically mentioned in the counterfoils that the cheques in question of the present matter are mentioned by Late Rakesh Mathur in said counterfoils that the cheques were issued to the Plaintiffs.*

*Ans. It is wrong*

*Q106. I put to you that you have deliberately not brought any documents in respect of handwriting of your father and signature of your father Late Rakesh Mathur as you are well aware that the Ex. PW-1/1 to Ex. PW-1/6 and Ex. PW-1/20 and also. Ex. PW-3/7 are signed by your father and even on some documents the handwriting of your father is available and therefore you do not want to allow the Plaintiff or the court to have any document available for comparison.*

*Ans. It is wrong."*

[emphasis supplied]



23. No doubt, the onus to prove that the promissory notes as well as the cheques contained the handwriting/signatures of late Sh. Rakesh Mathur was on the plaintiff. The plaintiff has duly fulfilled the onus by summoning the official record from late Sh. Rakesh Mathur's bank. However, the defendants did not lead any evidence to disprove the evidence led on behalf of the plaintiff. The Trial Court has also correctly held that there was no explanation given by the defendant as to how the official cheques came to the possession of the plaintiff if they were not handed over by late Sh. Rakesh Mathur to him. It was not the case of the defendants that the said cheques were stolen by the plaintiff.

24. It is a settled position of law that a civil suit has to be decided on the basis of preponderance of probabilities. In the present case, the Trial Court has analysed the evidence on record and come to the conclusion that the promissory notes as well as the cheques duly bore the signatures as well as the handwriting of late Sh. Rakesh Mathur. Hence, the plaintiff was entitled to the amounts in terms of the promissory notes issued by late Sh. Rakesh Mathur.

25. Insofar as the cross objection filed by the respondent/plaintiff is concerned, there is no justification given by the Trial Court in not awarding *pendente lite* interest. While there is no infirmity in the finding of the Trial Court that the plaintiff was not entitled to any interest in terms of the promissory notes, the plaintiff would be entitled to seek *pendente lite* interest from the date of filing of the suit till the time the suit is decreed. A successful party in the suit cannot be deprived of *pendente lite* interest.

26. Similarly, no reasons have been given by the Trial Court for not



awarding costs in the favour of the plaintiff. It is a settled principle of law that costs ordinarily are required to be awarded in favour of the successful party. The Trial Court seems to have overlooked the order passed in the suit on 26<sup>th</sup> July 2016, in terms of which it was recorded that payments made to the Local Commissioner shall be recovered as cost of litigation at the end of the suit.

27. Accordingly, the plaintiff would be entitled to *pendente lite* interest at the rate of 9% per annum from the date of filing of the suit *i.e.* 1<sup>st</sup> October, 2015 to 3<sup>rd</sup> September, 2019, the date the suit is decreed.

28. The plaintiff shall also be entitled to costs of the suit including the remuneration paid to the Local Commissioner.

29. In view of the discussion above, this Court does not find any merit in the present appeal and consequently, the same is dismissed. The cross objections filed by the plaintiff are allowed in the aforesaid terms.

30. The Registry is directed to release the balance amount out of the sums deposited by the appellant/defendant, in favour of the respondent/plaintiff, along with the accrued interest.

30.1 The amount so released shall be adjusted from the total amount due to the respondent/plaintiff.

31. All pending applications stand disposed of.

**AMIT BANSAL  
(JUDGE)**

**JANUARY 29, 2026**

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