

HCJD/C-121
JUDGMENT SHEET

ISLAMABAD HIGH COURT
ISLAMABAD

R.S.A No.18/2010

Sheikh Muhammad Sarwar
VERSUS
Maqsood Ahmed

Appellant by : **Mr Abdur Rashid Awan, Advocate.**
Respondent by : **Mr Zulfiqar Ali Abbasi and Mr Shahid Munir, Advocates.**
Date of Hearing : **11-09-2019.**

ATHAR MINALLAH, CJ:-

This *Regular Second Appeal* is directed against judgments and decrees, dated 11.1.2002 and 18.05.2010, passed by the learned trial Court and the learned appellate Court, respectively.

2. The facts, in brief, are that the appellant filed a suit on 05.01.1995 for recovery of Rs.330,000/- alongwith profit. According to the assertions made in the plaint, the appellant had paid an amount of Rs.330,000/- as loan to the respondent. The suit was contested by the respondent and the latter took the plea that he had deposited an amount of Rs.330,000/- in the account of the appellant so that he could be facilitated in getting his son's visa. The said amount was later returned to the respondent through a cheque. Out of the divergent pleadings, the learned trial Court framed seven issues. After recording of evidence and affording opportunity of hearing to the parties, the suit was dismissed vide judgment and decree, dated 11.01.2002. The appellant preferred an appeal, which was dismissed by the learned appellate Court vide judgment and decree, dated 18.05.2010.

3. The learned counsel for the appellant has been heard at length. The learned counsel, despite his able assistance, could not show that the concurrent findings suffer from any legal infirmity. The evidence brought on record by the parties was properly appreciated and there was no misreading and non-reading on part of two competent Courts.

4. This Court is not persuaded that the appeal has any merit within the parameters provided under Section 100, read with Section 101 of the Code of Civil Procedure, 1908 (*hereinafter referred to as the 'C. P. C.'*), so as to require interference with the concurrent findings of the learned lower Courts. It is settled law that concurrent findings, however erroneous those findings may be, will not be interfered with under section 100 of the CPC, unless the lower courts have misread the evidence on record, or may have ignored a material piece of evidence on record through perverse appreciation of evidence. Reliance is placed on the case of *"Amjad Sharif Qazi and others versus Salimullah Faridi"*, **[PLD 2006 SC 777]**. It is also settled law that reappraisal of evidence on record by the second appellate court is not permissible under section 100 of the C. P. C., as held by the august Supreme Court in the case of *"Haji Sultan Ahmad through Legal Heirs vs Naeem Raza and 6 others"*, **[1996 SCMR 1729]**.

5. For the above reasons, the appeal at hand is without merit and is, therefore, accordingly dismissed.

(CHIEF JUSTICE)

*Asif Mughal/**