



2026:DHC:5084



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

% *Reserved on: 27th February, 2026*

Pronounced on: 03rd June, 2026

+ **RSA 91/2025**

PREM SINGH

S/o Late Surjan Singh

R/o VPO Chhara, District Jhajjar, Haryana.

.....Appellant

Through: Mr. B. Anand, Advocate.

versus

C.S. RATHORE

R/o C-34, Ground Floor,

Hazara Park, New Delhi.

Also at-

Chamber No. 181, Block 2

Delhi High Court, New Delhi.

.....Respondent

Through: Respondent in person.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. The *present Regular Second Appeal* under Section 100 of the Code of Civil Procedure, 1908 (CPC) has been filed by the *Plaintiff/Appellant*, against the common Judgment and Decree dated 22.12.2023 passed by the learned ADJ in RCA DJ Nos. 38/2019, whereby the Counterclaim filed by C.S Rathore seeking recovery of Rs.36,000/- as professional fee which the Ld. Civil Judge on 10.10.2018 which had been dismissed, was decreed.



2. The *Plaintiff/Appellant Prem Singh* filed **Civil Suit No. 56206/2016** for recovery of Rs. 60,000/- along with interest @24% from 25.04.2011 till its realization, as well as for litigation expenses for an amount of Rs.25,000/-
3. A **Counter-Claim No. 08/2017** was also filed by the Defendant/Respondent Mr. C. C. Rathore for recovery of his professional fees for representing the Appellant/plaintiff in two litigations, in the sum of Rs.36,000/-.
4. The **facts in brief, as stated in the plaint**, was that the Plaintiff/Appellant was employed with *M/s Bass Electric Industry* and his services were terminated on 10.10.1993. The plaintiff challenged the Termination Order by way of **WP(C) No. 12349/05**, before this Court, which was disposed of, vide Order dated 01.02.2010. The Company did not comply with the Order of the Hon'ble High Court of Delhi, and the plaintiff had filed the **Contempt Case No. 107/2011**.
5. The Plaintiff had engaged the Defendant, C.S. Rathore as his counsel in the said WP(C) as well as in Contempt Case. Whilst the Contempt proceedings were pending before this Court, the employer settled the dispute and paid a sum of Rs.80,000/- (Rs. 20,000/- by way of cheque and Rs. 60,000/- in cash) to the Defendant/ Advocate of the plaintiff, before the. Thus, the **Contempt Petition was dismissed** as not pressed, vide Order dated 25.04.2011.
6. The Defendant sent only the draft of Rs.20,000/- by post to the Plaintiff and did not hand over the balance Rs.60,000/- i.e. cash amount. Despite several requests made by the plaintiff, the defendant refused to pay the amount of Rs. 60,000/-. Thereafter, the Plaintiff sent a Legal Notice dated 15.03.2012 to the Defendant. A Complaint dated 09.07.2012 was also



filed in the Bar Council of Delhi, though no action was taken against the Defendant.

7. Hence, *the Plaintiff filed the Suit for recovery of Rs. 60,000/- along with interest @24% from 25.04.2011 till its realization as well as for litigation expenses for an amount of Rs. 25,000/-.*

8. **The Defendant filed a Written Statement** as well as **Counter-Claim No. 08/2017** stating that the amount of Rs. 80,000/- was paid to the Plaintiff, in its entirety. He asserted that the plaintiff undertook to pay the fee to the defendant at the time of obtaining a favourable Order from this Court, but till date the plaintiff has not paid the professional fee of Rs. 36,000/- (*Rs. 25000/- for the Writ Petition and Rs.11000/- for contesting the Civil Contempt Petition*) of the defendant. ***Thus, he denied the liability to pay Rs. 60,000/-, but claimed his professional fee of Rs. 36,000/-, by way of the Counter-Claim.***

9. **The Plaintiff in the Replication** reiterated his assertions made in the plaint and denied the allegations made in the Written Statement.

10. **The issues on the pleadings were framed on 09.02.2017**, as under:

“1. Whether the plaintiff is entitled to a decree of Rs.60,000/- as prayed for? (OPP)

2. Whether the plaintiff is entitled to interest? If yes, at what rate? (OPP)

3. Relief.”

11. **Issues on Counter Claim** were framed as under:

“(i) Whether the Counter Claimant is entitled to a decree of Rs. 36,000/- as prayed for? (OPP)

ii) Whether the Counter Claimant is entitled to interest? If yes, at what rate? (OPP)



iii) *Relief.*”

12. The *Plaintiff examined himself as PW1* and proved the document Mark PW1/1 and Mark PW1/2, which are the copies of Orders dated 01.02.2010 in WP(C) No. 12349/2005 and Order dated 25.04.2011 in Contempt Case (C) 107/2011 passed by Hon’ble High Court of Delhi.

13. The *Defendant examined himself as DW1* and placed on record a copy of professional fee bill dated 27.04.2011, DW1/A.

14. *DW2 Mujibur Rehman*, Clerk working with the defendant since the year 2002, deposed by way of his affidavit Ex.DW2/A. He failed to support the defendant’s case; instead, he stated that no payment was made by the defendant to the plaintiff, in his presence. He also denied having any knowledge about the fees quoted by the defendant or about any receipt issued for payment by the plaintiff.

15. The *learned Civil Judge*, on appreciation of the evidence, observed that the Order dated 25.04.2011 passed in Contempt Case (C) No. 107/2011 by this Court, clearly shows that the defendant herein had received a sum of Rs. 60,000/- in cash and a Demand Draft bearing no. 188875 in the sum of Rs. 20,000/- on behalf of the plaintiff from the respondent, towards the settlement of dues of the plaintiff, in *Writ Petition*, on 25.04.2011.

16. The *Order Sheet* dated 25.04.2011 recorded that the defendant was directed to get formal a receipt from the plaintiff, to the respondent, within two days and the *Contempt Case* was accordingly disposed of.

17. The defendant has admitted receiving Rs. 60,000/- in cash on behalf of the plaintiff, in the *Contempt Case*. However, the defendant failed to produce any Receipt or witness to establish such repayment.



18. In his cross-examination, the defendant stated that the fee for the Writ Petition was settled at Rs. 25,000/- and that he demanded the same from the plaintiff, after the Writ Petition was decided on 03.11.2009. However, the professional Fee Bill placed on record by the defendant, was dated 27.04.2011, which was self-contradictory. Further, the defendant admittedly received Rs. 80,000/- from the plaintiff on 25.04.2011, comprising Rs. 20,000/- through demand draft and Rs. 60,000/- in cash. The defendant further claimed that he returned the entire amount to the plaintiff on 27.04.2011, but he failed to produce any evidence in support thereof. Rather, he admitted that no receipt was ever taken from the plaintiff.

19. The defendant thus, failed to disclose any defence or produce any witness to show that the amount of Rs. 60,000/- which was received by him in cash, has been returned to the plaintiff.

20. Therefore, the defendant's version that the professional fee bill was raised after the decision of both the Writ Petition and Contempt Case, and even after receiving the amount, was held to be not believable.

21. In respect of the **Counter-Claim**, learned Civil Judge noted that the onus was on the Defendant/Counter-Claimant C.S. Rathore to prove that he had raised the fee bill and it was not paid by the Plaintiff, Prem Singh. The original bill was neither produced nor proved, in accordance with the Indian Evidence Act. It was thus, held that there was no evidence to prove the Bill Mark DW1/A. Moreover, AW2 Mujibur Rehman, his Clerk since 2002, also failed to support the defendant. Therefore, it was held that the Counterclaimant C.S. Rathore was unable to prove his **Counterclaim**.

22. *Ld. Trial Court concluded that the plaintiff was entitled to recover a sum of Rs. 60,000/- (Rupees Sixty Thousand only) from the defendant with*



pendente-lite and future interest @ 9% per annum, and accordingly, decreed the Suit, vide judgement dated 10.10.2018.

23. *However, the Counterclaim was dismissed* by observing that the Respondent was unable to lead any evidence to prove non-payment of his professional fees.

24. **RCA DJ 37/2019** and **RCA DJ 38/2019** were filed by C.S Rathore against the common judgment dated 10.10.2018 *decreeing the Civil Suit and dismissing his Counter-Claim.*

25. **Ld. District Judge** noted that the Order dated 25.04.2011 passed by this Court mandated that the Defendant/ C.S Rathore had accepted the amount with the condition that the amount would be received by the plaintiff and that there would be a receipt evidencing the said fact, issued. However, there was no evidence on record that the balance amount/cash amount of Rs. 60,000/- was ever given by the defendant to the plaintiff.

26. Considering the totality of facts and circumstances, the Ld. District Judge concurred with the findings of the Ld. Civil Judge, that the Respondent not having received the entire amount of Rs. 60,000/- from the Appellant, was established. *Thus, the Appeal preferred by C.S. Rathore against the decree of the Suit, was dismissed.*

27. However, regarding the Appeal against *the dismissal of the Counter Claim, the Ld. District Judge* observed that the parties were at consensus that the amount agreed as fees was Rs. 36,000/- (Rs. 25,000/- for the Writ Petition and Rs. 11,000/- for the Contempt Petition). DW-2 also, during his cross-examination, admitted the fact that the amount of fees was to be adjusted from the receipt of the compensation.



28. The contention of the Plaintiff that he had paid the fees of Rs. 36,000/-, remained unsubstantiated. It was held that *C.S. Rathore* was entitled to recovery of the fees in the sum of Rs. 36,000/- which was directed to be adjusted from the decree in favour of plaintiff and balance of Rs. 24,000/- after deduction of the fees amount, was payable to the plaintiff, **and the Counter-claim was accordingly decreed.**

29. Aggrieved by the decree of Counterclaim, the **Second Regular Appeal under Section 100 CPC, has been filed by Prem Singh.**

30. The **Grounds of challenge** against the decree of the Counterclaim, are that the entire case of the Respondent- C.S. Rathore in his Counterclaim rested on examination of DW2 Mujibur Rehman, but he failed to depose in favour of Respondent, C.S. Rathore. It was not appreciated that DW2, while stating that no amount was paid to Prem Singh by C.S. Rathore in his presence, but at the same time, he also denied any knowledge about the fee being quoted by C.S. Rathore to the Appellant Prem Singh.

31. It was asserted that the Respondent C.S. Rathore, while examining himself as DW1, had placed on record a Professional Fee Bill dated 27.04.2011, Mark DW1/A, but the same was not proved and the original of the Bill was not placed on the record. It was also not shown that the Bill was ever received by the Appellant. Furthermore, it was stated that as originally claimed by C.S. Rathore, the fee was settled as Rs.25,000/- for the Writ Petition and it was to be paid after the decision of Writ Petition, which got decided on 03.11.2009, while the Bill of C.S. Rathore is dated 27.04.2011.

32. It has not been appreciated that C.S. Rathore is an Advocate himself. It was due to the personal vendetta of C.S. Rathore that the Appellant was not given his rightful amount of Rs.60,000/-, which had been received by



C.S. Rathore, on his behalf. It is unfortunate that an Advocate has indulged in such kind of practice and that too, despite the orders of this Court.

33. It has not been appreciated by the learned ADJ that in the cross-examination of C.S. Rathore, a specific question was put to him as to why he had not taken any receipt from the Appellant despite the directions of this Court, in Contempt Case No. 107/2011, he denied any such direction, which is contrary to the orders of this Court, wherein it was clearly directed that the Receipt be filed by the Advocate.

34. The Order of the learned ADJ decreeing the Counterclaim of Respondent is based on presumption and is not in accordance with law. It has further not been considered that the *Regular Civil Appeal filed by C.S. Rathore was barred by Limitation* and the delay had never been condoned by the Appellate Court.

35. The evidence as led by the parties has not been appreciated correctly, and the *Counterclaim has been allowed in a mechanical manner*, without there being any discussion on the written arguments filed by the Appellant/Plaintiff.

36. It is, therefore, submitted that allowing of the Counterclaim, has resulted in a miscarriage of justice and the said impugned judgment dated 22.12.2023 of the learned ADJ decreeing the Counterclaim, is liable to be set aside.

37. The *following substantial questions of law* have been proposed by the Appellant:

“1. Whether the appellate court can admit any document into evidence without giving any reason, that too when the civil judge/ trial court has even refused to admit the same document as evidence and the same was never proved in accordance with law.



2. *Whether a judgment by an appellate court can be based on mere presumptions and even not taking on record the evidence recorded by the trial court.*
3. *Whether, without condoning the delay in appeal, can an appellate court decide the appeal?*
4. *Whether the appellate court can interfere with trial court findings and give contradicting judgments without considering the law and the facts?"*

Submissions heard and record perused.

38. The substantial question of law which arises is: *whether the judgment of the learned ADJ decreeing the Counterclaim of the Respondent in the sum of Rs.36,000/- is based on no evidence and is therefore, perverse.*

39. To state briefly, the case of the Plaintiff/Appellant is that W.P (C) 12349/2005 had been filed on his behalf to challenge his termination as well as the compensation awarded in the sum of Rs.40,000/-. This Court modified the impugned Award and directed the Company to pay Rs.80,000/- as compensation. It was further directed that in case the payment was not made within 04 weeks, the Company shall be liable to pay interest @ 12% p.a. till the actual date of payment. *The Writ Petition was disposed of, vide Order dated 01.02.2010.*

40. The Company failed to comply with the Order, leading to the filing of *Contempt Case No. 107/2011* against the Company, on 18.02.2011. The Company handed over the entire amount of compensation of Rs.80,000/-, out of which, Rs.20,000/- was handed over *vide* demand draft while Rs.60,000/- was given in cash, which was accepted by the Respondent/C.S. Rathore, Counsel for the Plaintiff/Appellant, since the plaintiff was not present in the Court. *The Contempt was accordingly, dismissed as not pressed, on 25.04.2011.*



41. The Defendant, C.S. Rathore however, took the defence that the fee of Rs.36,000/- as agreed between the parties, had not been paid and that he was entitled to recovery of Rs.36,000/-, for which he filed the Counterclaim, which was decreed by the Ld. ADJ, in Appeal by the Respondent.

42. The question which now arises is: *whether any evidence whatsoever had been led by Respondent C.S. Rathore in proof of his Counterclaim, for recovery of Rs.36,000/- as his profession fee.*

43. The first aspect which emerges is that C.S. Rathore agreed to appear as an Advocate for Plaintiff/Appellant in 2007 and according to him, a fee of Rs.25,000/- was fixed, for the Writ Petition. The additional fee of Rs.11,000/-, was agreed to be paid by the Plaintiff, for the Contempt Petition.

44. Pertinently, the amount of Rs.60,000/- in cash received by him on 25.04.2011 for and on behalf of the Plaintiff, was not handed over and had been retained by him, as has been held in the Suit decreed against him by Civil Judge, which has not been challenged by him. The respondent claimed that he generated a fee bill of 27.04.2011, Mark DW1/A, i.e., two days after having received the money. It explains why C.S. Rathore sat quiet in respect of his fee and did not ask for the Fees from the Plaintiff, having illegally kept Rs.60,000/-, which actually belonged to the Plaintiff.

45. It is only when the Suit for Recovery of Rs.60,000/- was filed by the Plaintiff and the prospect of return of money loomed large, that the defendant started defending himself by making a formal Claim for his Fees.

46. From the evidence, it emerges that the Plaintiff was liable to pay the fee to the Counsel, which never got paid by him. It was agreed between them that the fee would be adjusted from the compensation, as and when



received by him. The amount was admittedly received in the Court on 25.04.2011, by C.S. Rathore. Unfortunately, he decided to keep the entire amount, while he was required to fairly to return the amount and then seek the sum of Rs.36,000/- as his fee, or adjust his fees and return the balance amount.

47. From the aforesaid circumstances, as has been rightly observed by the learned ADJ, it is proved that Plaintiff had not paid the professional fee to C.S. Rathore, which had been agreed as Rs.25,000/- for the Writ Petition and Rs.11,000/- for the Contempt Petition. While the conduct of Mr. Rathore was unfair in having retained the entire amount of Rs.60,000/- instead of adjusting his fee, the fact remains that the Plaintiff/Appellant had also not led any evidence, to show that the professional fee was ever paid to C.S. Rathore.

48. Learned ADJ has thus, *rightly appreciated the evidence* and the rival assertions of the parties, to conclude that the professional fee of Rs.36,000/- as agreed by the Plaintiff, was never paid by him to the Defendant. Here it is not a case of whether the Bill got proved or not, but the oral evidence sufficiently established that the Plaintiff failed to pay the professional fee, as was settled by them. The Plaintiff nowhere, either in his pleadings or in the evidence, stated even an iota about the fee agreed or how and on what date he had paid the professional fee.

49. The learned ADJ has, therefore, rightly appreciated the evidence and decreed the Counterclaim. *There is no substantial question of law raised in this Second Appeal.*



2026:DHC:5084



50. There is **no merit in the present Second Appeal, which is hereby, dismissed.** Pending Applications, if any, are also disposed of.

**(NEENA BANSAL KRISHNA)
JUDGE**

JUNE 03, 2026

N