

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

Date of Reserve: 15th February, 2010
Date of Order: 22nd February, 2010

CM (M) No. 117/2010 & CM No. 1713/2010

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22.2.2010

Surinder Grover

... Petitioner

Through: Mr. Rajiv K. Garg, Advocate

Versus

Sushila Sahni & Ors.

... Respondents

JUSTICE SHIV NARAYAN DHINGRA

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporter or not?
3. Whether judgment should be reported in Digest?

JUDGMENT

By present petition, the petitioner has assailed an order dated 29th September, 2009 whereby an application of the petitioner under Section 151 for leading additional evidence by examination of handwriting expert to prove signatures of late Shri Shadilal Sahni was dismissed.

2. The petitioner is plaintiff before the trial Court and had filed a suit for specific performance in the year 1988 in respect of property no. G-1 Rajouri Garden, New Delhi. The agreement in question was stated to be dated 14th January, 1985 allegedly executed by late Shri Shadilal Sahni. During trial, the petitioner was given full opportunity to examine his witnesses as plaintiff. The petitioner closed his evidence. Thereafter, the defendant examined witnesses and the trial which started in 1988 came at the stage of final arguments in the year 2008. When the case was at the stage of final arguments, the petitioner made this application for recording additional evidence which was dismissed by the trial Court after noting that despite the fact that the documents relied upon by the petitioner were sent to CFSL at the instance of this Court and a report of CFSL obtained was on record since 1989 to the effect that the signatures on the documents did not belong to late Shri Shadilal Sahni, the petitioner had not taken any steps to examine another handwriting expert to rebut

the CSFL report. Defendant's contention in the WS was also the same that the signatures were not of Shri Shadilal Sahni and that is why documents were sent to CFSL. Still the petitioner did not examine handwriting expert. An application made by the petitioner earlier for examining an handwriting expert was also dismissed by the Court. Against this order, the petitioner did not approach any higher forum and the order became final. Thereafter, when the case reached at the stage of final arguments the petitioner filed another application for additional evidence for examining handwriting expert.

3. The interlocutory orders passed by a Court on applications made by the parties become final inter se parties unless they are reversed by the higher Court. In the present case, once the application dated 27th February 2008 of the petitioner for examination of handwriting expert was dismissed by a reasoned order, this order became final between the parties. The principle of *res judicata* would apply even within the proceedings and the similar application cannot be made again and again by a party once it has been dismissed. I, therefore consider that the trial Court rightly did not allow the second application of the petitioner under Section 151 CPC for examining handwriting expert.

4. From the very beginning, the stand of the defendant had been that the signatures on the alleged agreement and the receipts were not that of the deceased Shri Shadilal Sahni. The only issue to be proved by the petitioner was that the agreement was genuine and bore signatures of Shri Shadilal Sahni. The documents were sent to CFSL and CFSL report was against the petitioner. This report was on the file of trial Court since 1989. The petitioner did not choose to examine any handwriting expert from 1989 till 2009 i.e. for 20 years. He made this application under Section 151 CPC at the stage when the case was fixed for final arguments. It is apparent that the sole purpose of the petitioner had been to drag the case.

I find no infirmity in the order passed by the trial Court. The petition is hereby dismissed.

February 22, 2010
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SHIV NARAYAN DHINGRA, J.