

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R. No.2669 of 2015

Date of Decision.22.04.2015

Likhma deceased son of Sh. Gajjan and othersPetitioners

Versus

Raj wife of Shri Ramesh KumarRespondent

Present: Mr. Rajesh Lamba, Advocate
for the petitioners.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

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

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K. KANNAN J. (ORAL)

1. The defendant who resisted an action for specific performance on plea that the plaintiff had taken the thumb impressions of the defendant on some blank papers to obtain the consent of the defendant to alienate the land and the husband of the plaintiff by playing fraud and cheating, fabricated a false and forged agreement on the said blank papers was later seeking for examination of a thumb impression expert after comparing the thumb impressions found in the agreement and in documents. The Court found that the thumb impressions have already been admitted by the defendant and therefore, there was no scope for affording any opportunity for the defendant to bring expert evidence.

2. The learned counsel for the petitioner points out to me that apart from his statement in para 2 that the thumb impressions were used by playing fraud and cheating by the plaintiff's husband, elsewhere

in the same statement, it is stated in para 3 that "it is denied that the defendant ever agreed to sell the suit land to the plaintiff as alleged."

In the same para elsewhere it is stated that "there was no agreement as alleged. The alleged agreement, if any, is totally false and frivolous one." This according to him would show that he has denied his thumb impression and there was justification for allowing a thumb impression expert to be brought.

3. The statement in para 3 denying the agreement must be seen in the context of how a specific denial is brought in para 2 and how the thumb impression had been used for fabricating the document. Therefore, when the defendant was pleading that there was no agreement, he must be taken as stating that the agreement was not true in the manner in which it is sought to be proved by the plaintiff and in the context of how the defendant himself has taken a plea that his thumb impressions have been taken on some blank papers and that was attempted to be used by the husband of the plaintiff. I would find no error in the order of the trial Court in denying to him the benefit of thumb impression expert to give evidence of denial of even the actual thumb impressions as found in the document.

4. The counsel has still a grievance that the Trial Court has made some observations about the genuineness of the documents and the thumb impressions as found in the agreement and according to him, it would cause grave prejudice to him. The defendant has brought upon himself needless observations by his own foolhardy act and I will only observe that any observation made by a Judge while disposing of the interlocutory application ought to be taken as confined only for the

disposal of the application and will have no bearing on the merits of his defence at the time of consideration of the whole case and rendering a judgment.

5. With these observations, the civil revision is dismissed.

(K. KANNAN)
JUDGE

April 22, 2015
Pankaj*