

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 3439 of 2013 (O&M)
Date of decision: 27.07.2015

Kuldip Kumar

... Petitioner

versus

Shakuntla and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. B.S. Jaswal, Advocate, for the petitioner.

Mr. Anupam Bhardwaj, Advocate, for the respondent.

K.Kannan, J.

The defendant is reported to have produced the document containing the affidavit of alleged presence before the sub-Registrar and the signature of sub-Registrar attesting to the presence of the defendant. The plaintiff has sought at the time of rebuttal permission to summon the sub-Registrar to elicit whether the he has actually contested the document. The Court has not allowed for such permission.

The petitioner ought not to treat this as constituting any prejudice to him. After all if the defendant was attempting to prove her alleged presence before the sub-Registrar, the burden was only on her and she must have made available the presence of the sub-Registrar to speak about the attestation. The defendant has not chosen to do so and the Court also did not think it necessary to allow the plaintiff to secure the presence.

He should be entitled to argue that did not feel shy of getting even the sub-

Registrar to come to the Court but only the Court did not allow for such an exercise. It only result in drawing appropriate inferences against the defendant for non-examination of the sub-Registrar.

The plaintiff wanted to examine also some person from the income tax Department and produced income tax returns to show the readiness and willingness.

This is only principal issue that the plaintiff has to prove in a suit for specific performance and that evidence should be available in affirmation of the plaintiff's averments. It cannot be brought at the stage of rebuttal. In any event the fact that the plaintiff was an income tax assessee and he had filed returns cannot advance any particular issue regarding readiness. The same must be taken as requiring to be established in the manner the plaintiff has already admitted to do in his first turn of examination.

I will find no reason for interference in revision .

The civil revision petition is dismissed with above observations.

(K.KANNAN)
JUDGE

27.07.2015

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