

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Civil Revision No.6062 of 2013(O&M)

Date of decision: 23.04.2015

Smt. Harjit Kaur wife of Kanwar Vijay Singh (Legal Representative of Nirankar Singh son of Shri Shiv Narain Singh son of Jasmir Singh) at present resident of The Fort, Village Mustafabad, District Yamunanagar.

... Petitioner

versus

Smt. Surinderjit Kaur widow of Jagdev Inder Singh, resident of Village Tangora, Tehsil Shahbad, District Kurukshetra (Haryana), and others.

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Ajaivir Singh, Advocate,
for the petitioner.

Mr. Rajinder Sharma, Advocate,
for respondents 4 to 6 and 8.

1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ? No.
3. Whether the judgment should be reported in the digest ? No.

K.Kannan, J. (Oral)

1. The petitioner is before this court aggrieved that her request for examination of hand-writing expert at the rebuttal stage was not acceded to. The plaintiff was making a claim to the property of the grandfather on the basis of revenue entries that registered the grandfather as the owner of some properties. The

defendant was the contesting plaintiff claim by referring to the documents of purchases said to have been obtained from the grandfather himself. The issues included therefore the determination of the validity of the purchases of the defendants. The plaintiff examined herself and the defendant has also adduced the evidence. The trial has taken 20 years to arrive at the stage of conclusion of the defendant's side. The plaintiff at this stage has sought for comparison of the signatures found in the documents with some documents in the criminal court file and for eliciting a hand-writing expert opinion on the genuineness of the signatures found in the sale deeds. The court has observed that the plaintiff ought to have examined a hand-writing expert in his own affirmative evidence regarding the claim to title and the invalidity of the sale and declined the relief.

2. I would find that the court's observations that the plaintiff must have undertaken the burden of the invalidity of the sale as in affirmative evidence to be wrong, but all the same, I would not fault the ultimate decision that the trial Court came to. If the suit is filed for title to the properties tracing the right to the plaintiff's grandfather and the defendant set up a plea of a transaction of sale by the grandfather himself, then the plaintiff must have prepared herself for the nature of evidence that shall be necessary at the commencement of her own evidence and at the conclusion of the

defendant's evidence. The plaintiff must have taken all the steps at the time when the matter came up for rebuttal so as to be in a position to produce the hand-writing expert along with his report and ought to have taken steps at the preliminary stage in that regard by the time the defendant's side was concluded. A right of rebuttal does not mean commencement of a preparation to collect evidence at that stage only. Even preparation of steps by comparison of signatures in admitted documents with disputed documents must have been done soon after the institution of the suit and after the pleadings have come on record. In a case where 20 years have elapsed and the party would believe that she can initiate a process of securing comparison of signatures, collection of report and summoning an expert, after the defendant's side is closed, the plaintiff is clearly mis-advised that such a luxury would obtain after 2 decades after the institution. These are all matters invariably that ought to be left for a trial Judge to decide in order that the process of conclusion of trial obtains a certain degree of certainty about when it will conclude. A passionate argument is made that if there is a delay, it could be compensated by costs and there could also be a direction for expeditious disposal within a time frame. I take these pleas to be shorn of any seriousness, where every counsel believes that the High Court could guide the subordinate courts. The practical reality is that no case, which secures a direction for a disposal within a particular

period, is ever concluded within such a period. Times without number, there are pleas by the Presiding Officers before this court seeking for extension of the stipulated period for the conclusion on grounds that the witnesses were not made ready or they could not be summoned or the counsel could not conclude the trial and so on. In actual practice, it is simply impossible for any court of a higher forum to dictate the time before when a trial must conclude. Till we discipline ourselves and come by a tenable practice for quick disposal, all exhortations for disposal of cases quickly will come to no meaning.

3. If there was any prejudice that could be caused by the order, I would have surely intervened. If the validity of the sale has to be proved by the defendant and he is not prepared to bring an expert, perhaps the plaintiff must take that to her own advantage to bring an argument on the effect of non-examination of an expert. After all, the burden is only on the defendant and a right of rebuttal must stop to situations of the nature of evidence in rebuttal that could be brought immediately. I had asked the counsel at the previous hearing whether the plaintiff would bring any other form of rebuttal evidence other than the examination of an expert. The plaintiff is not prepared to respond to the query raised at the previous hearing and would proceed with the same arguments as though a hand-writing expert's evidence ought to drive the final nail

in the coffin of the defence. I am not impressed with the response to the query raised and I believe that the prayer now sought will only lock up the case in litigation for another decade at the trial stage itself. There are at all times sermons as to how cases cannot go spill beyond 5 years and we must regulate our trial proceedings to conclude within a reasonable time. The length of period at the trial erodes the quality of evidence and it is just not a problem of a pendency, it is a problem of improper and untruthful evidence, if the trial drifts for 2 decades. I will not lend a day more for the trial to prolong for the fanciful exercise which the plaintiff seeks to now bring about. I decline to make an intervention and dismiss the petition as vexatious.

(K.KANNAN)
JUDGE

23.04.2015
sanjeev