

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CR-6733-2014

Date of decision: 19.1.2015

Azad and others

..... Petitioners

Versus

Bans Raj and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE R.P. NAGRATH

1. *Whether Reporters of the 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?*

PRESENT: Mr. Naveen Kaushik, Advocate for the petitioners.

R.P. NAGRATH, J. (ORAL)

Petitioners have invoked revisional jurisdiction of this Court under Article 227 of the Constitution of India for leading additional evidence for comparison of specimen signatures/standard signatures of the petitioners with the signatures on the pleadings in the succession application, allegedly filed by the petitioners and defendant-respondents jointly for certain amounts lying in the bank, in the name of the deceased-Baldev, brother of the father of petitioners and respondents. The learned trial Court rejected the application filed by the petitioners to lead additional evidence of the hand-writing expert vide impugned order dated 23.9.2014 (Annexure P-3).

I have heard learned counsel for the petitioners and carefully perused the impugned order as well as the paper-book.

There was a specific plea in the written statement dated 10.10.2013 (Annexure P-6) filed by defendant-respondents that both the parties filed a joint application for grant of succession certificate. Though this fact was denied in the replication dated 15.11.2013 (Annexure P-7) filed by the plaintiff-petitioners but the fact remains that the petitioners have already lead evidence in the affirmative and thereafter, the defendant-respondents also closed their evidence.

In a way the petitioners want to bring evidence in rebuttal to the evidence brought by respondents by examining clerk of an Advocate who stated that the petition for grant of succession certificate was filed jointly by the parties, who signed the same in his presence. It is not possible for the petitioners to contend that they may be permitted to lead evidence to rebut the evidence brought by the respondents and that too by way of additional evidence, at such a belated stage. This is not a new fact which has emerged during evidence of the defendant-respondents but there was already an allegation in the application filed by the respondents under Order XI Rule 7 of the Code of Civil Procedure (CPC) for rejection of the plaint on the ground of previous admission made in the application for grant of succession certificate. That application was, however, rejected by the trial Court. So, the above factor was not something new which has arisen just because the respondents have examined a witness to prove the fact which was pleaded in the written statement itself.

In view of the above, there is no merit in the instant petition and the same is dismissed.

January 19, 2015
rishu

(R.P. NAGRATH)
JUDGE