

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

R.S.A.No.3602 of 2015

Date of Decision: November 19, 2015

Nanak (deceased) through L.Rs

...Appellants

Versus

Munshi & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

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?

**Present: Mr.R.S.Sihota, Senior Advocate with
Mr.B.R.Rana, Advocate,
for the appellants.**

AMIT RAWAL, J. (Oral)

The appellant-plaintiffs are in Regular Second Appeal against the concurrent findings of facts and law, whereby the suit challenging the decree dated 16.3.1960 passed in Civil Suit No.136 titled as “Bhola Versus Nanak”, has been dismissed.

Mr.R.S.Sihota, learned Senior Counsel assisted by Mr.B.R.Rana, Advocate, appearing on behalf of the appellant-plaintiffs submits that during the pendency of the appeal before the Lower Appellate Court, an application for additional evidence was filed to place on record the report of the Handwriting expert to show that the alleged thumb impressions, on the written statement filed in the aforementioned civil suit were forged one, whereby Bhola is alleged to have taken the share of Ram Kali. The said application has been erroneously dismissed. A revision

petition was filed, which is still pending for consideration. He further submits that the original record of the judgment and decree, including pleadings, i.e., plaint, written statement and Vakalatnama was summoned, but the report came that the original record was not available. However, there are certain other circumstances to show that the judgment and decree has been obtained by playing fraud and, therefore, the suit had erroneously been, much less perversely dismissed.

I have heard the learned counsel for the appellants and appraised the paper book.

It is settled law that the plaintiff has to stand on his own legs. Before filing the suit, it was the bounden duty of the plaintiffs to verify the aforementioned fact as to whether the thumb impressions of Ram Kali on the admitted written statement in the aforementioned suit (Bhola Versus Nanak) were genuine or not. In the absence of the aforementioned evidence, the suit could not have proceeded, much less, it was reported that the original record is missing. The suit was filed without verifying the written statement, in essence, the suit was filed in the year 2005 challenging the decree of 1990. In my view, it is an act of greed and nothing beyond that. The report of the expert, thus, would be meaningless in the absence of the original record. It appears that the expert has examined the thumb impressions of Ram Kali from the photocopy in order to discharge the obligation towards his client. It is settled law that the expert toes to the lines of the person, who engages him. In my view, once the application for additional evidence had been dismissed, the remedy was to file the appeal under Order 43 Rule 1-A of the Civil Procedure Code and not the revision.

I do not intend to differ with the findings rendered by both the

Courts below, much less no substantial question of law arises for determination by this Court.

The appeal is accordingly dismissed.

November 19, 2015
ramesh

(AMIT RAWAL)
JUDGE