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

Civil Revision No.4561 of 2016

Date of Decision: 11.08.2016

Kali Krishan (deceased) through LRs

.....Petitioner

Vs

Shashi Sharma and others

.....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Ms. Deepa Jain, Advocate for
Mr. Yash Dev Kaushik, Advocate
for the petitioner.

RAJ MOHAN SINGH, J.

[1]. In this revision petition the petitioner(s) have assailed order dated 12.05.2016 (Annexure P-3) passed by Civil Judge (Sr. Divn.), Faridabad whereby application filed by the petitioner(s) for summoning the stamp issue register for the year 2006-07 from the record room, Tehsil Compound, Ballabhgarh for sending it to Forensic Science Laboratory, (for short 'the FSL) was declined.

[2]. Petitioner(s) alleged that on 16.10.2015 stamp vendor Sh. Deepak was examined as PW-3 and photocopy of entry register was placed on record. Perusal of the register revealed that the stamp paper was issued ante-dated. Petitioner(s) also

alleged that the witness had also admitted that the entry was not recorded in his handwriting and signatures were not belonging to him and ink used in the said entry was different from other entries. On that premise it was claimed that the stamp paper was issued to the plaintiff in collusion with the defendant No.1 for grabbing the property of defendant No.2. With this background, the application for summoning of the stamp issue register of the stamp vendor for sending the same to FSL for examination of ink dating and age of paper was made.

[3]. *De hors* the statement made by the respondent in the pleadings, it was found that the entry made in different handwriting would not necessarily give rise to any conclusion of fraud. Witness PW-3 had specifically deposed and identified the entry No.5548 as the entry made in the handwriting of his brother. He had also identified the signature of his brother at the back of the stamp paper and also deposed that the stamp paper was issued by his brother and entry was made by him on his instructions.

[4]. Perusal of Ex.PW-3/B would reveal that there were more entries in the same handwriting of brother of the witness PW-3 on the same page. Those entries existed at serial No.5535, 5536 and 5537.

[5]. In view of aforesaid, such entries cannot be held to be fraudulent. Any infraction of procedure in terms of laws governing the conduct of stamp vendor would at the most make the case of the dereliction of duty or irregularity in the conduct of transacting business, but the same cannot be coined as a result of fraud or fabrication, particularly when the witness had admitted that the entries were at the hands of his brother. Plea of fraud has to be viewed with instinct of '*mens rea*' and penal consequences to flow from it. No such facts can be gathered from the pleaded case.

[6]. In view of aforesaid, no illegality could be detected in the impugned order passed by the Civil Judge (Sr. Divn.) Faridabad, therefore, this revision petition is dismissed.

August 11, 2016

Atik

**(RAJ MOHAN SINGH)
JUDGE**

Whether speaking/reasoned

Yes / No

Whether reportable

Yes / No