

Civil Revision No.4691 of 2016

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.4691 of 2016
Date of Decision: July 25, 2016

Amandeep Singh & another

...Petitioners

Versus

Manjeet Kaur

...Respondent

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

Present: Mr.Akshay Kumar Jindal, Advocate,
for the petitioners.

Mr.Aman Bansal, Advocate,
for the caveator-respondent.

AMIT RAWAL, J. (Oral)

Mr.Akshay Kumar Jindal, learned counsel for the petitioner-defendants submits that in a suit, the respondent-plaintiff had sought declaration and consequential relief of permanent injunction by challenging the transfer deed dated 17.6.2008, allegedly executed by one Bhola Singh in favour of his clients. The trial Court, on the basis of the pleadings, framed the following issues:-

- 1) Whether the plaintiff is entitled to possession of the suit property by setting aside the mutation no.980 dated 17.06.2008 and no.2110 dated 30.07.2008 as prayed for?

OPP

- 2) Whether the plaintiff is entitled to permanent injunction as prayed for? OPP
- 3) Whether the plaintiff has no cause of action to file the present suit? OPD
- 4) Whether the suit is not maintainable in the present form? OPD
- 5) Whether the plaintiff is estopped by his own act and conduct from filing the present suit? OPD
- 6) Whether the suit is barred by res-judicata? OPD
- 7) Whether the suit is barred U/O 2 Rule 2 CPC? OPD
- 8) Whether the plaintiff has not come to the Court with clean hands? OPD
- 9) Whether the plaintiff has concealed true facts from the Court? OPD
- 10) Relief.

He submits that on perusal of the aforementioned issues, it reveals that no rebuttal issue was framed. Respondent-plaintiff moved an application by attaching the list of witnesses to examine the expert and the Court allowed the said application and the Handwriting Expert, sought to be examined in evidence of the respondent-plaintiff, had been allowed, though objection was taken by the petitioner-defendants, which has been kept open. Copy of the cross-examination of the said expert has been attached with the petition as Annexure P-3.

In order to rebut the report of the Handwriting Expert, an

application for additional evidence has been filed, but the same has erroneously been dismissed except permitting the defendants to tender few documents. He submits that though the respondent-plaintiff was not entitled to seek the examination of the expert in rebuttal in the absence of the rebuttal issue, but if it is allowed subject to objection, the defendants cannot be prevented from examining the expert.

Mr.Aman Bansal, learned counsel for the caveator-respondent submits that no doubt the objections have been kept open, but it would be seen by the trial Court, therefore, there was no occasion for the petitioner-defendants to move an application, but he very fairly states that he has no objection if one effective opportunity is granted to the petitioner-defendants to take the services of the expert by taking the photographs from the disputed and admitted signatures and submit his report subject to the cross-examination by the respondent-plaintiff. Since the suit is of 2011, an appropriate direction be issued to the trial Court to expedite the disposal of the suit.

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

In view of the statement made by the learned counsel for the respondent-plaintiff with regard to no objection in examining the expert by way of additional evidence, I deem it appropriate to allow the

revision petition permitting the petitioner-defendants to take the services of the Handwriting Expert, who shall move an appropriate application and take the photographs of the disputed signatures and compare the same with the admitted one and submit his report subject to the cross-examination by the respondent-plaintiff. The entire exercise is to be done by giving two effective opportunities, thereafter, the trial Court shall decide the suit as expeditiously as possible, preferably within a period of four months.

The impugned order qua declining additional evidence is hereby set-aside, whereas the finding qua second prayer regarding taking on record certain documents is upheld.

Revision petition stands allowed.

July 25, 2016
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No