

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 5044 of 2015

Date of Decision: 10.02.2016

Santosh

... Petitioner(s)

Versus

Krishna and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Shekher Dhawan.

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| 1. | Whether reporters of local newspapers may be allowed to see judgment? | Yes |
| 2 | To be referred to reporters or not? | |
| 3 | Whether the judgment should be reported in the Digest? | Yes |

Present: Mr. Sanjay Mittal, Advocate
for the petitioner(s).

Mr. A.K.Yadav, Advocate
for respondents No.1 & 2.

Shekher Dhawan, J.

Present petition is challenge to the order dated 20.7.2015, passed by learned Civil Judge (Junior Division), Rewari, whereby application, filed by the petitioner/defendant for leading additional evidence, was dismissed.

Relevant facts of the case that civil suit titled "Krishna and Another v. Ved Parkash and Others" was filed by respondents-Krishna and Raj Bala for declaration and defendants contested the same and

after framing of issues by the Court below on 10.2.2014, parties were asked to lead their evidence. Both the parties led their respective evidence and concluded the same. The case was fixed for rebuttal evidence and arguments and at that stage, present application for getting independent report from Government agency was filed by the present petitioner and the same was dismissed by the Court below.

Learned counsel for the petitioner submitted that plaintiffs in their evidence produced the Handwriting and Fingerprint Expert and report Ex.PW.3/B was on the file. Defendants also produced Handwriting Expert and report Ex.DW.5/B is on the file.

Learned counsel for the petitioner also submitted that signatures of Raghbir Singh were not compared with the signature on plaint, stay application and vakalatnama in the case titled "Abhey Singh v. Surat Singh, which is very much relevant for the just decision of the case. But the Court below dismissed the said application and the present petition be accepted and petitioner be allowed to seek Expert Report from some Government agency in this regard. To support his argument, reliance has been placed upon judgment of this Court rendered in ***Chamkaur Singh v. Mithu Singh 2014(1) RCR (Civil) 303***, wherein view was taken by this Court that documents be sent to Central Forensic Science Laboratory, Chandigarh to resolve the conflict.

Learned counsel for the respondents submitted that both the parties have already led their respective evidence and also examined expert witnesses. There was no purpose of getting independent report from any Government agency in this regard. Rather

the case is to be decided on merit and evidence available on the file. Application has been filed just to delay the matter as both the parties have already led their respective evidence and such an application cannot be allowed to be led in rebuttal. On this point, reliance has been placed upon the judgments rendered by this Court in cases ***Ram Kumar v. Raj Kumar and Others 2014(2) PLR 536, Nathu Ram Prem Chand v. Jagroop Singh 2014(5) Law Herald 4484, Tarlok Singh v. Sohan Singh 2000(1) RCR (Civil) 723, Jagir Chand v. Jagsir Singh 1999(4) RCR (Civil) 291 and Sukhpal Singh v. Sowinder Singh 1999(2) RCR (Civil) 437.***

Having considered the submissions made by learned counsel for the parties and the view taken by this Court in the above referred judgments, this Court is of the considered view that in the present case, both the parties have already led their respective evidence. Both the parties have already examined their document experts as well. The Court is to decide the litigation on the basis of evidence available on the file. Such an evidence cannot be allowed to be led by way of additional evidence because this fact was well within the knowledge of the petitioner at the time when she was leading affirmative evidence. At that time, petitioner could take the plea that report from Government agency may be sought, rather than examining document expert. Such an additional evidence is not permissible as per law. The Court below has observed that earlier also, an application for leading additional evidence was filed and the same was dismissed.

In view of above, this Court is of the view that there is absolutely no illegality in the order under challenge and present petition is dismissed being devoid of any merit.

(Shekher Dhawan)
Judge

February 10, 2016

"DK"