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

CR-5695-2015

Date of decision : 28.11.2016

Dharambir

... Petitioner

Versus

Jai Bhagwan (deceased) through LRs

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. S.R. Hooda, Advocate
for the petitioner.

Mr. Ashish Pannu, Advocate
for the respondent(s).

AMIT RAWAL, J. (ORAL)

The petitioner-plaintiff is aggrieved of the impugned order, whereby the application seeking indulgence of the trial Court for getting his thumb-impressions compared with the signatures on the sale deed challenged in the Civil Suit, has been dismissed.

Mr. S.R. Hooda, learned counsel appearing on behalf of the petitioner-plaintiff submits that the suit claiming declaration with consequential relief of permanent injunction had been filed by the plaintiff challenging the sale deed dated 15.11.1989 and the entries in the revenue record i.e. jambandi for the year 1993-94 and subsequent record on the

grounds taken therein. When the suit is at the stage of plaintiff's evidence, he wanted to examine his disputed signatures on the sale deed with the admitted signatures for the effective and proper adjudication of the civil suit, but the same has erroneously been declined on the premise that the challenge to the aforementioned sale deed of 1989 had been in the 2009 and therefore, it was nothing, but an adoption of dilatory tactics.

He further submits that the foundation of the civil suit is challenge to the sale deed and therefore, the Court could not deny the aforementioned relief, thus, urges this Court for setting aside the impugned order under challenge.

Per contra, Mr. Ashish Pannu, learned counsel appearing on behalf of respondent(s)-defendant(s) submits that the aforementioned application was smacked by the *mala fides*, much less, dilatory tactics as the suit was *ex facie* barred by law of limitation. No explanation has come forth in challenging the sale deed of 1989 in the year 2009, thus, urges this Court for dismissal of the present revision petition.

I have heard the learned counsel for the parties and appraised the paper book and of the view that the findings rendered by the trial Court in declining the application seeking the relief, above noted, is not sustainable in the eyes of law, for, the pith and substance of the suit is challenge of the sale deed *ibid* and the plaintiff cannot be prevented to get his thumb-impressions on the disputed sale deed with the admitted one for effective and proper adjudication of the suit, aforementioned. However, there shall be no further attempt to delay adjudication of the trial, no doubt the civil suit is at the stage of plaintiff's evidence.

For the foregoing reasons, the impugned order dated 17.07.2015 is hereby set aside and the application (Annexure P-3) is allowed.

Civil Revision Petition is allowed.

28.11.2016
Yogesh Sharma

(AMIT RAWAL)
JUDGE

✓

Whether speaking/reasoned Yes/ No

✓

Whether Reportable Yes/ No