

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

CR No.64 of 2015(O&M)

Date of decision:9.5.2016

Roshan

....Petitioner

VERSUS

Itwara

.....Respondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

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

Present: Mr. Harsh Bunker, Advocate for the petitioner.

Mr. Parminder Singh, Advocate for the respondent.

REKHA MITTAL, J.

The present petition has been directed against order dated 11.12.2014 (Annexure P-5) passed by the Civil Judge (Junior Division), Karnal, dismissing application (Annexure P-4) filed by the petitioner directing respondent/plaintiff to give specimen signatures and handwriting and further allowing the petitioner to get compared the same with the disputed signatures of the respondent/plaintiff on agreement dated 24.12.2002 from a Handwriting and Fingerprint Expert.

Counsel for the petitioner would submit that the respondent/plaintiff has filed a suit for declaration with mandatory injunction in respect of Bara measuring 3 marlas detailed in para 2 of the plaint primarily on the plea that he is owner of the suit property and the defendant/petitioner is in possession thereof as a licensee. The petitioner

in the written statement has raised a specific plea that the suit property was sold by the respondent/plaintiff to the petitioner/defendant by way of full payment agreement dated 24.12.2002 for a valuable consideration of Rs.30,000/-, received in presence of Bir Singh son of Sh. Sadhu Ram, Goverdhan son of Sh. Manohar Singh and Sher Singh son of Sh. Gopi Chand. It is further submitted that as the respondent/plaintiff has denied the agreement having been executed by him by way of replication as well as during the course of evidence, it has become necessary that the signatures on agreement dated 24.12.2002 are compared with specimen/standard signatures of the respondent/plaintiff by a Handwriting and Fingerprint Expert in order to bring the truth on fore for just decision of the case. It is further argued that the learned trial Court has committed a grave error rather illegality in dismissing the application filed for the said purpose. In support of his contention, he has referred to judgment of this Court Chamkaur Singh v. Mithu Singh, 2014(1) R.C.R. (Civil) 303.

Counsel for the respondent, on the contrary, has supported the impugned order with the submissions that as the petitioner was aware of the stand of the respondent/plaintiff since the inception of the proceedings in view of the replication filed by the respondent/plaintiff categorically denying execution of any such agreement dated 24.12.2002, the learned trial Court has rightly rejected prayer of the petitioner made after conclusion of evidence by the parties. It is further submitted that the present application filed by the petitioner is nothing but a clever tactic to prolong decision of the case and to retain possession of the property in question as long as he can afford to.

I have heard counsel for the parties and perused the records.

It is an admitted position of the case that the respondent/plaintiff filed replication to the written statement of the petitioner and controverted the allegations with regard to the agreement having been executed by him in favour of the petitioner. The parties were put to trial and have already concluded their evidence. The present application was filed by the petitioner after he had already adduced evidence to prove the agreement dated 24.12.2002. The present application is actually an attempt to adduce additional evidence but without making out a case in support thereto, by invoking Section 151 of the Code of Civil Procedure, 1908. It further appears that the instant application is a clever device to subvert the relevant provisions under which his claim may not be tenable. That being so, the petitioner cannot be allowed to misuse the process of law to adduce additional evidence at the stage of rebuttal and arguments under the guise of present petition. The judgment relied upon by counsel for the petitioner deals with an entirely different controversy, thus has got no bearing on the facts of case at hand.

In view of what has been discussed hereinabove, finding no merit, the petition fails and is accordingly dismissed.

Nothing stated in this order shall be construed as an expression of opinion on merits of the controversy.

MAY 9, 2016
'D. Gulati'

(REKHA MITTAL)
JUDGE