

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CR No.6968 of 2016

Date of Decision:12.12.2016

***Malkeet Kaur and another***

**.....Petitioners**

**Versus**

***Mohinder Kaur and another***

**.....Respondents**

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

**Present:** Mr. Arihant Jain, Advocate  
for the petitioners.

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**RAJ MOHAN SINGH, J.**

[1]. Petitioners have assailed order dated 08.09.2016 passed by Additional Civil Judge (Senior Division), Moonak vide which application directing Sh. Parma Nand Sharma, Advocate for defendant No.1 to give specimen writings (as per writings of names and addresses of parties and witnesses written on the writing dated 13.03.2011 and as per writing of applications dated 17.09.2008, 08.02.2012 and 04.09.2013) in the Court for comparison was dismissed.

[2]. Plaintiff-respondent filed a suit for declaration and permanent injunction. Defendant No.1(husband of the plaintiff) appeared through Sh. Parma Nand Sharma, Advocate and filed the written statement. Defendants No.2 and 3 contested the suit on merits and also filed their written statements. During

pendency of the suit, defendants No.2 and 3 filed an application for directing Sh. Parma Nand Sharma, Advocate for defendant No.2 to give specimen writings, for comparison as per prayer made in the application.

[3]. It was alleged by defendants No.2 and 3 that the plaintiff had relied upon photostat copy of writing dated 13.03.2011 and was proved by means of secondary evidence. Defendant No.1 being husband of the plaintiff had connived with each other. Defendant No.2 had denied execution in her written statement. Plaintiff in the cross examination had stated that names and addresses of the parties and witnesses on the above said writing were written by Gurbhej Singh son of Sahib Singh. Defendants had summoned said Gurbhej Singh, but his whereabouts were not known as per report of the Process Server. Therefore, the application was moved by defendants No.2 and 3 in the aforesaid context.

[4]. In the second application, defendants No.2 and 3 had asked defendant No.1 to disclose the name of writer/scribe of applications dated 17.09.2008 and 08.02.2012 moved by him through Sh. Parma Nand Sharma, Advocate in the Court of Assistant Collector Ist Grade, Moonak in partition proceedings. Defendant No.1 had taken a stand in the reply that he was not aware of any such application as the matter was quite old. The

reply of defendant No.1 was claimed to be false and intentional, as the non-disclosure of name of scribe of the applications would definitely cause material prejudice to defendants No.2 and 3.

[5]. Defendants No.2 and 3 further claimed that names and addresses of the parties and witnesses of writing dated 13.03.2011 and applications dated 17.09.2008, 08.02.2012, 04.09.2013 were scribed by Sh. Parma Nand Sharma, Advocate, Moonak. Therefore, defendants No.2 and 3 wanted the specimen writings of the Advocate in the Court for the purposes of comparison. The application was dismissed by the Trial Court.

[6]. I have considered the arguments raised by learned counsel for the petitioners.

[7]. The counsel for the other party cannot be compelled to disclose any fact or legal advise which is protected in terms of Section 129 of Indian Evidence Act. No suggestion was given to the plaintiff in her cross examination in respect of the facts which is subject matter of the application. Counsel for the opposite party cannot be forced to give specimen handwriting or signature as against the protection enjoyed by the counsel. Defendants No.2 and 3 could have availed alternative remedy of examining document expert to prove handwriting dated

13.03.2011 to be forged and fabricated. The Advocate does not fall under the ambit of any person in terms of Section 173 of the Evidence Act.

[8]. In my considered opinion, the findings recorded by the trial Court cannot be faulted with on any front which is sought to be projected by the petitioners. Resultantly, I see no reasons to differ with the findings recorded by the trial Court while dismissing the application. This revision petition is accordingly dismissed.

12.12.2016

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**(RAJ MOHAN SINGH)  
JUDGE**

**Whether Reasoned/Speaking**

**Yes/No**

**Whether Reportable**

**Yes/No**