

CR-8897-2015(O&M)

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IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

CR-8897-2015(O&M)

Date of decision : 08.01.2016

Smt.Santosh Jain and another

... Petitioners

Versus

Vijaya Bank and another

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr.N.K.Malhotra, Advocate
for the petitioners.

REKHA MITTAL. J.(ORAL)

By invoking Article 227 of the Constitution of India, challenge has been laid to the order dated 26.11.2015 passed by the Civil Judge (Junior Division), Rohtak whereby the application filed by the petitioners (defendants in the civil suit) for examination of a handwriting expert by way of additional evidence has been dismissed.

The petitioners filed the application for examination of a handwriting expert primarily on the ground that they wanted to get compared signatures of the petitioners upon documents Ex.P13 and P20 as these documents do not bear their signatures. It is argued that a serious prejudice is likely to be caused to the petitioners in establishing their defence in case they are not permitted to examine an expert when

otherwise the other party can be compensated with costs for the delay likely to occur in case additional evidence is allowed.

I have heard counsel for the petitioners, perused the records more specifically the impugned order passed by the Court below and find no reason to intervene .

The petitioners did not deny the factum of availing of loan, execution of documents in this regard and above all one of the petitioners namely Satish Kumar Jain appeared in the witness box and admitted that documents Ex.P13 and P20 bear his signatures as well as signatures of his wife. Counsel for the petitioners has fairly conceded that documents Ex.P13 and P20 were marked as exhibits in the evidence of the respondent bank and, therefore, Sh.Satish Kumar Jain was not taken by surprise when he was confronted with the documents Ex.P13 and P20 during his cross examination. The present application filed by the petitioners for examination of an expert to get compare the purported signatures of the petitioners on Ex.P13 and P20 with their standard / admitted signatures is nothing but an attempt to withdraw from the admission made by Sh.Satish Kumar Jain and that too when he appeared in the witness box and made a statement on oath.

In view of the clear admission made by Sh.Satish Kumar Jain, no error much less illegality can be stated to be committed by the trial Court in rejecting prayer of the petitioners for examination of an expert. In this view of the matter, there is no merit in the petition and the same is

liable to be dismissed.

Ordered accordingly.

(REKHA MITTAL)
JUDGE

January 08, 2016.
Davinder Kumar