

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

**RA-CR-96-CII of 2015 in
CR 2525 of 2015**

Date of Decision: August 8, 2016

Malkiat Singh

.....Petitioner

Vs.

Nachattar Singh

.....Respondent

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI.

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**Present:- Mr. Tarunveer Vashist, Advocate
for the applicant-respondent.**

**Mr. Arihant Jain, Advocate
for the non-applicant/ petitioner.**

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M.M.S. BEDI, J.

This order will dispose of an application for review filed by the applicant/ defendant/ respondent (for short 'applicant') claiming that the order dated April 10, 2015 has been obtained by non-applicant / plaintiff/ petitioner (for short non-applicant) by a wrong representation made before this Court to the effect that onus of Issue No.1 A was on defendant whereas the certified copy of the order framing issue No.1 A, copy of which has been appended with the review application shows that the onus of issue No.1A, as per the order dated November 25, 2014, was 'OPP'.

Brief reference to the earlier order passed by this Court is necessary for deciding the review application. Vide order dated April 10, 2015, this Court had given an opportunity to the non-applicant to produce rebuttal evidence to establish that the pronote alleged to have been executed by defendant was actually containing signatures of defendant- applicant. It was held that since the onus of Issue No.1 A i.e. 'Whether the pronote and receipt are forged and fabricated documents', was on defendant as such the plaintiff was held to have a right to produce rebuttal evidence. Since the revision petition was disposed of in limine granting opportunity to the petitioner to produce hand-writing expert within a period of one month by completing the necessary formalities but the respondent has filed this application claiming that this Court was misled by arguing by the non-applicant/ petitioner that onus of the above said issue was on defendant whereas the onus of the above said issue which was framed on November 25, 2014 was on non-applicant/ plaintiff.

No doubt, this Court was not apprised of the actual facts regarding the onus of Issue No.1A having been put on plaintiff but the short question which is required to be determined in the present case now is whether the order passed by this Court deserves to be reviewed in view of actual fact brought to the notice of this Court?

The plaintiff/ non-applicant/ petitioner had filed a suit for recovery of Rs.4.5 lacs on the basis of a pronote alleged to have been signed by the defendant/ applicant/ respondent. The defendant had denied his signatures and had also produced hand-writing expert in an attempt to establish that it did not bear the signatures of defendant. After the parties

had led evidence on all the issues, an additional issue No.1 A mentioned hereinabove was framed on November 25, 2014 on the basis of an application filed by non-applicant/ petitioner.

In case it is presumed that the onus of the above said issue is on plaintiff then the plaintiff would be entitled to lead evidence in affirmative after November 25, 2014 with a right to the defendant to produce rebuttal but if the onus is presumed to be on defendant, then the plaintiff- petitioner would have right to produce evidence in rebuttal by producing the hand-writing expert. There is another eventuality that in view of pleadings and circumstances of the case, the onus of Issue No.1 A is on both the parties to be proved by producing their respective evidence. Even if the reasoning of the counsel for the applicant- respondent in the review application is accepted, the interest of justice requires that both the parties should be given fair opportunity to establish the document/ pronote on the basis of which the suit has been filed by plaintiff- petitioner. The application filed by the plaintiff- petitioner had been dismissed by the trial Court presuming that it was the plaintiff who wanted to delay the matter. It is the suit of the plaintiff for recovery and a direction had been issued that he would be required to produce the evidence of expert within a period of one month. As the right of the defendant to expeditious disposal stands safeguarded, the circumstances do not warrant the review of the order but the conduct of the plaintiff- non-applicant in putting forth wrong facts deserves to be deprecated for which a cost of Rs.10000/- is imposed on the non-applicant/ plaintiff/ petitioner which will be paid to the applicant/ defendant on next date of hearing before the trial Court.

With the above observations, the review application is dismissed.

August 8, 2016
sanjay

(M.M.S.BEDI)
JUDGE

Whether speaking/ reasoned:	Yes/ No.
Whether Reportable:	Yes/No.