

In the High Court of Punjab and Haryana at Chandigarh

**C.R.No. 4283 of 2017
Date of Decision: 31.7.2017**

Sat Narain and another

---Petitioners

versus

Smt. Santosh and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Rajesh Bansal, Advocate
for the petitioners**

Rekha Mittal, J.

The present petition directs challenge against order dated 20.5.2017 passed by the Additional Civil Judge (Senior Division), Panipat whereby application dated 15.3.2017 (Annexure P-4) for allowing the petitioners/plaintiffs to adduce additional evidence has been dismissed.

Counsel for the petitioners has submitted that in the original plaint, the petitioner challenged the judgment and decree dated 30.1.1978 alleged to be passed in Civil Suit No. 85 of 1978 titled "Prem Chand vs. Chander Bhan". Later, an application was filed for amendment of the plaint in order to correct particulars of the said judgment and decree and the same was allowed vide order dated 20.12.2016. It is further submitted that subsequent thereto, the present application was filed for additional evidence in order to get compared the alleged thumb impressions of Chander Bhan

on the written statement and power of attorney filed in Civil Suit No. 85 of 1978 with his thumb impressions on registered sale deed bearing Wasika No. 1399 dated 21.6.1979 registered in the office of Sub Registrar, Panipat but the same has been wrongly dismissed by the trial court. It is further argued that a serious prejudice is likely to be caused to the petitioners in case they are not permitted to get necessary comparison done from an expert and examine the witness.

I have heard counsel for the petitioners, perused the paper book particularly the order impugned.

Though the reasoning adopted by the court below for dismissing application of the petitioners for adducing additional evidence does not appear to be legal and correct but it remains a fact that the present application was filed after evidence of the petitioners was closed by order and the suit was pending for adducing evidence in rebuttal, if any, and arguments.

On a query raised by the Court, counsel for the petitioners has fairly informed that neither the original documents namely written statement and power of attorney allegedly thumb marked by Chander Bhan are available on records nor the registered sale deed bearing Wasika No. 1399 registered on 21.6.1979 is a part of records of the trial court. In absence of these documents being a part of records of the trial court, what type of comparison can be allowed by the trial court by way of additional evidence. It is none of the plea of the petitioners that contesting party admits that sale deed bearing Wasika No. 1399 was executed by Sh. Chander Bhan or the original is available in the office of the Sub Registrar, Panipat. Under the circumstances, the petitioners cannot seek indulgence of this Court for

adducing additional evidence by setting aside the order passed by the trial court.

For the foregoing reasons, the petition fails and is ordered to be dismissed.

(Rekha Mittal)
Judge

31.7.2017

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No