

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.4351 of 2017

Date of Decision:- 07.07.2017

Nishan Singh

.....Petitioner

Versus

Tajinder Singh and another

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Paramjit Singh Jammu, Advocate, for the petitioner.

RITU BAHRI, J. (Oral)

Present revision petition under Article 227 of the Constitution of India for setting aside the impugned order dated 09.05.2017, passed by learned Civil Judge (Sr. Divn.), Sirsa whereby application filed by petitioner/defendant No.1 for calling the plaintiff for the purpose of admission or denial his signatures on the documents, clean chit/no dues chit issued to Tehna Ram, vide dated 7.6.1995 have been dismissed.

As is evident from the record that learned Additional Civil Judge (Sr. Divn.), Sirsa, after taking into consideration the facts and all the contentions pertaining to appreciation of evidence, has dismissed the application filed by petitioner/defendant No.1, by virtue of order dated 09.05.2017, which in substance is as under: -

“Perusal of the file shows that the plaintiff has filed the present suit for specific performance of the agreement to sell dated 27.12.2013. The defendant in his written statement has denied the execution of the said agreement to sell. During the course of evidence of plaintiff, the alleged receipt dated 07.06.1995 was not put to the plaintiff. Moreover, during the course of evidence of defendant only, the said receipt was brought to the notice of court for the first time, when an application for admission and denial of signatures was moved in his defence. Perusal of the file shows that

the alleged receipt is shown to have been issued in favour of Tahna Ram and same is fixed for 07.06.1995. However, for the reasons best known to defendant, said Tahna Ram has not been examined as witness nor there is any explanation on record as to how the defendant came into the possession of said receipt. Admittedly, the defendant is not a party to the said receipt. Thus, the said document does not pertain to the defendant the present suit. Hence, it cannot be said that the said receipt dated 07.06.1995 was issued by plaintiff in favour of defendant. Thus, this court has failed to understand as to how the report of expert would be relevant for just adjudication of the case in hand. Rather, it appears that the present application has been filed just to delay the proceedings of the present case.

Admittedly, finding no merits, instant application stands dismissed.”

Learned counsel for the petitioner/defendant No.1 has argued that for a just decision of the trial, the plaintiff should be called for admission or denial of signatures on the documents.

The above-said argument of learned counsel for the petitioner is liable to be rejected as the defendant is not a party to the said receipt and neither it was issued by the plaintiff to the defendant. Hence, the application filed by petitioner/defendant No.1 for calling the plaintiff for a purpose of admission or denial of signatures on the documents and receipt dated 07.06.1995 has been rightly dismissed and this Court is of the considered view that the learned Additional Civil Judge (Sr. Divn.), Sirsa, has examined the matter in the right perspective, recorded the cogent grounds and correctly passed the impugned order. Such order, containing valid reasons, cannot possibly be interfered with by this Court, unless and until, the same is illegal, perverse and without jurisdiction. Since, no such patent illegality or legal infirmity has been pointed out by the learned counsel for the petitioner, so, the impugned order deserves to be and is hereby maintained in the obtaining circumstances of the case.

In the light of aforesaid reasons, as there is no merit, therefore, the instant revision petition is hereby dismissed as such.

July 07, 2017
naresh.k

(RITU BAHRI)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No