

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

140

CR-4729 of 2017

Date of Decision:24.07.2017

Bhupinder Kumar

.....Petitioner

Versus

Anil Kumar and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK.

**Present: Mr.G.C.Shahpuri, Advocate,
for the petitioner.**

RAMESHWAR SINGH MALIK, J.(Oral)

Instant revision petition, at the hands of defendant No.3, filed under Article 227 of the Constitution of India, is directed against the order dated 13.07.2017, Annexure P-10 passed by the learned trial court, whereby plaintiff was permitted to examine finger print and hand-writing expert to compare the signatures of defendant No.3-petitioner, on the agreement to sell and receipt dated 09.12.2009.

Heard learned counsel for the petitioner.

A bare perusal of the impugned order passed by the learned trial court would show that initially a joint written statement was filed on behalf of defendant Nos.2 to 5, admitting all the averments taken by the plaintiff in his plaint. However, at a later point of time, defendant No.3-petitioner moved an application before the learned trial court, seeking its permission to file his separate and contesting written statement, denying the execution of such an agreement to sell and receipt. No doubt, in such a

situation, plaintiff ought to have been more vigilant while leading his

evidence in affirmative. However, in the case in hand, it is the learned trial court who has found it necessary to seek the assistance of hand-writing expert so as to enable the learned trial court to render an effective judgment between the parties, with a view to do substantial justice. In such a situation, no fault can be found with the impugned order passed by the learned trial court and the same deserves to be upheld.

So far as the judgments relied upon by the learned counsel for the petitioner in Mohinder Singh Versus Balbir Singh and others, 2011 (13) R.C.R.(Civil) 238, Jagdev Singh and others Versus Darshan Singh and others, 2007(1) RCR(Civil) 794, Avtar Singh and another Versus Baldev Singh and others, 2015(5) R.C.R.(Civil) 625, Surjit Singh and otehrs Versus Jagtar Singh and others, 2007(1) R.C.R.(Civil) 537, Ram Kumar Versus Raj Kumar and others, 2013(54) R.C.R.(Civil) 308 and M/s Satyam Steel Versus Smt.Sarla and another, 2017(1) R.C.R.(Civil) 902, are concerned, there is no dispute about the observations made and law laid down therein. However, on a close perusal of the cited judgments, none of them has been found to be of any help in the present case, being distinguishable on facts.

It is the settled principle of law that peculiar facts of each case are to be examined, considered and appreciated first, before applying any codified or judgemade law thereto. Sometimes, difference of even one circumstance or additional fact can make the world of difference, as held by the Hon'ble Supreme Court in Padmasundara Rao (Dead) Vs. State of Tamil Nadu and others, 2002 (3) SCC 533, Union of India Vs. Amrit Lal Manchanda and others, 2004 (3) SCC 75, State of Orissa Vs. Md. Illiyas, 2006 (1) SCC 275 and State of Rajasthan VS. Ganeshi Lal, 2008

(2) SCC 533.

Had there not been the admitting written statement earlier filed on behalf of defendant Nos.2 to 5 including the present petitioner-defendant No.3, position might have been different. However, in the present case, defendant No.3-petitioner filed his contesting written statement at a later point of time with permission of the learned trial court.

Further, it is the settled proposition of law that rules of procedure are meant for advancing the cause of justice. It is also true that every court of competent jurisdiction must make an endeavour to grant reasonable opportunity to both the parties to the litigation to put-up their best case before the Court. None of the parties should be forced to go home with the grievance that sufficient and reasonable opportunity was not granted by the learned court of competent jurisdiction.

While following the above-said principle of law, the learned Court shall achieve twin objects; namely, (i) it shall avoid multiplicity of litigation between the parties and (ii) the learned Court would be in a much better position to do substantial justice between the parties by rendering an effective judgment. That is what has been done by the learned trial court while passing the impugned order. By allowing the application moved by the plaintiff, the learned trial court also imposed a reasonable amount of costs on the plaintiff. Having said that, this Court feels no hesitation to conclude that the learned trial court was well within its jurisdiction to pass the impugned order and the same deserves to be upheld, for this reason also.

The contention raised by the learned counsel for the petitioner that the petitioner never put his signatures on the written statement earlier filed on behalf of defendant Nos.2 to 5 has been duly considered but wholly

misplaced for the reason that in the instant case, it was the learned trial court who itself has found it necessary to get an hand-writing expert examined so as to facilitate the learned trial court, to arrive at a judicious conclusion. Further, since defendant No.3-petitioner will have the opportunity to cross-examine the hand-writing expert, no prejudice is likely to be caused to him by passing the impugned order by the learned trial court and the same deserves to be upheld, for this reason as well.

During the course of hearing, learned counsel for the petitioner could not point out any patent illegality or perversity in the impugned order passed by the learned trial court, which may warrant interference at the hands of this Court, while exercising its revisional jurisdiction under Article 227 of the Constitution of India. The impugned order has been found based on sound reasons and the same deserves to be upheld, for this reason as well.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that the present revision petition is misconceived, bereft of merit and without any substance, thus, it must fail. No case for interference has been made out.

Resultantly, with the above-said observations made, instant revision petition stands dismissed, however, with no order as to costs.

July 24, 2017
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(RAMESHWAR SINGH MALIK)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No