

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.483 of 2017

Date of decision: 24.01.2017

Ravi Kumar

... Petitioner

Vs.

Ram Gopal Bagga and another

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. C.L Sharma, Advocate
for the petitioner.

RAMESHWAR SINGH MALIK, J. (ORAL)

Feeling aggrieved against the impugned order dated 05.12.2016 passed by learned trial Court, whereby application moved by the plaintiff-petitioner for additional evidence was dismissed, he has approached this Court by way of instant revision petition under Article 227 of the Constitution of India, for setting aside the impugned order.

Heard learned counsel for the petitioner.

It has gone undisputed before this Court that the defendants-respondents, at the very first opportunity, denied their signatures on the agreement to sell dated 01.10.2003, while filing their written statement. Thereafter, on completion of pleadings of the parties, learned trial Court framed the appropriate issues. Petitioner being the plaintiff, onus was on him to prove the signatures of the defendants on the agreement to sell dated 01.10.2003, by leading cogent evidence, including fingerprint and hand-writing expert.

However, for the reasons best known to him, plaintiff-petitioner failed to

produce any fingerprint and hand-writing expert, at the time of leading his evidence in affirmative.

On the other hand, defendants examined fingerprint and hand-writing expert. Thereafter, once the evidence of the defendants was closed and the suit was at the final stage, plaintiff-petitioner moved the application seeking permission to lead additional evidence by producing fingerprint and hand-writing expert for comparison of the signatures of the defendants on the agreement to sell dated 01.10.2003. Learned trial Court, after hearing learned counsel for the parties, rightly dismissed the application of the petitioner, recording sound reasons, because of which the impugned order deserves to be upheld.

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 learned trial Court and rightly so, it being a matter of record. When confronted, as to whether the petitioner sought any permission of the Court, reserving his right under Order 18 Rule 3 of the Code of Civil Procedure at the time of leading his affirmative evidence, learned counsel for the petitioner had again no answer and rightly so, it also being a matter of record. Once the plaintiff-petitioner conducted his case in a negligent manner, because of which a valuable right has already accrued in favour of the defendants, petitioner-plaintiff cannot be permitted to turn around and say that now he should be allowed to lead additional evidence to rebut the expert evidence brought on record by the defendants. Nobody can put the clock back. It is too late to allow the plaintiff-petitioner to lead his additional evidence, for which he has failed to make out a case before the learned trial Court as well as before this Court.

Petitioner was never taken by surprise by the defendants at the time

of leading their defence evidence. As noticed hereinabove, defendants had made it very clear at the very outset, at the time of filing of written statement, denying the signatures on agreement to sell dated 01.10.2003 Ex.P1. It is also not pleaded or argued case on behalf of the plaintiff-petitioner that anything was concealed by the defendants at the appropriate stage of litigation, so as to entitle the petitioner to lead his additional evidence at this belated stage, particularly when petitioner was the plaintiff and onus was on him to prove his case, by leading his affirmative evidence, including examining a fingerprint and handwriting expert.

However, neither the petitioner reserved his right to lead evidence in rebuttal as per the provisions of law contained in Order 18 Rule 3 CPC nor he could make out a special case, which may entitle him to lead additional evidence at this stage. It is so said because the defendants cannot be put in a disadvantageous position by this Court, merely on the asking of the petitioner-plaintiff, only for his convenience, altogether ignoring his negligence. In fact, this Court would be exceeding its jurisdiction, while permitting the plaintiff-petitioner to lead his additional evidence with a view to fill serious lacuna left by him during leading his affirmative evidence. Having said that, this Court feels no hesitation to conclude that learned trial Court committed no error of law, while passing the impugned order and the same deserves to be upheld, for this reason also.

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 since no illegality has been found in the impugned order passed by learned trial Court, the same deserves to be upheld. The revision petition having

been found wholly misconceived, bereft of merit and without any substance, must fail. No ground for interference has been made out.

Resultantly, with the abovesaid observations made, present revision petition stands dismissed, however, with no order as to costs.

24.01.2017
vishnu

[RAMESHWAR SINGH MALIK]
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No