

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 114

CR-5217-2017 (O&M)
Decided on : 12.09.2017

Parveen Kohli

..... Petitioner

VERSUS

Chand Kishan

..... Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr.Ashish Gupta, Advocate, for the petitioner.

DEEPAK SIBAL, J. (ORAL)
CM-19187-CII-2017

Through this application filed under Section 151 CPC affidavit of the petitioner dated 05.09.2017 alongwith a compact disc is sought to be placed on record as Annexure P-6.

After hearing learned counsel for the petitioner and going through the contents of the application, the prayer made in the application is allowed and resultantly, affidavit dated 05.09.2017 of the petitioner alongwith a compact disc is ordered to be taken on record as Annexure P-6.

Main case

Learned counsel for the petitioner submits that the petitioner had filed an application before the Trial Court with a prayer for sending a compact disc to the Central Forensic Laboratory, Chandigarh or to any other Forensic Science Laboratory to prove its authenticity and further for directing the respondent-landlord to give his voice sample so that the same could also be sent alongwith the compact disc to the Central Forensic Science Laboratory, Chandigarh or to any other Forensic Science Laboratory for their opinion whether the utterings in the compact disc were that of the respondent.

Through application being CM-19187-CII-2017 which has been allowed today the relevant transcript from the compact disc has been placed on record as Annexure P-6.

Notice of motion.

Mr.Vishal Aggarwal, Advocate, who is present in Court, accepts notice on behalf of the respondent and states that since the main eviction petition filed by the respondent-landlord is listed tomorrow for final disposal before the Rent Controller, Ambala, the present petition be taken up for hearing in the post lunch session. Learned counsel for the petitioner states that he has no objection to the matter being taken up as per the afore request made by Mr.Aggarwal and has handed over a complete set of the paper book to Mr.Aggarwal.

12.09.2017
Rittu/shamsher

[DEEPAK SIBAL]
JUDGE

As requested by learned counsel for the respondent to which learned counsel for the petitioner had consented to, the matter is taken up in the post lunch session.

Learned counsel for the respondent-landlord has filed an affidavit of the respondent-landlord which is ordered to be taken on record. A copy of the same has already been handed over to counsel for the petitioner-tenant.

As per the afore-referred affidavit of the respondent-landlord filed in Court today, he admits the contents of para 2 of the affidavit dated 05.09.2017 of the petitioner-tenant to the extent that the transcript of the compact disc as referred to in that affidavit and said to have been spoken by the respondent-landlord have in fact been spoken by him and that in view of such admission, there is no requirement of sending the compact disc in question as also the respondent's voice samples to any laboratory for matching of the voice in the compact disc with that of the respondent-landlord.

To avoid any confusion which may arise at any later stage, paragraph 2 of the aforesaid affidavit dated 05.09.2017 of the petitioner-tenant as also paragraph 2 of the reply thereto by the respondent-landlord are reproduced below: -

Paragraph 2 of the affidavit dated 05.09.2017 filed by the petitioner:-

“2. That this Hon'ble court while order dated 05-09-2017 has directed the deponent to placing on record the affidavit stating therein the transcript of the conversation with the respondent/landlord which is reproduced as under: - firstly he replies back to customer and said namaskar to customer when the customer asked “kya haal hai” he responds back “Badiya hai. When the customer asked “koi chandi ki item” then while showing the article he said “Ek minute” then “aisi hi hota hai Ji”. It is worth to mention here the voice of respondent/landlord can be listened clearly with the help of headphone as there was a rush in the shop and noise of traffic outside the shop.”

Paragraph 2 of the affidavit filed by the respondent -

“2. That it has been alleged that the present respondent/landlord/deponent was heard talking to someone in the CD, the contents of which have been mentioned in para No.2 of the affidavit filed by the petitioner/tenant in C.M. No.19187-CII of 2017 in C.R. No.5217 of 2017 listed today.”

In view of the above admission by the respondent-landlord, the present petition has been rendered infructuous.

Ordered accordingly.

12.09.2017
shamsher

[DEEPAK SIBAL]
JUDGE

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