

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

143

CR No.5431 of 2017
Date of decision: 17.08.2017

Keshav Bindal and another

..... Petitioners

Versus

Satvir Singh

..... Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Arun Singal, Advocate
for the petitioners.

ANIL KSHETARPAL, J. (ORAL)

Plaintiffs have filed this revision petition under Article 227 of the Constitution of India against the order dated 21.07.2017 refusing to adjourn the case for rebuttal evidence.

Learned counsel for the petitioners at the outset has submitted that he just wants to examine Vijay Kumar, witness of the Power of Attorney dated 30.10.2001. He has submitted that Vijay Kumar was present on 21.07.2017 as noticed by the Court, however, the Court refused to examine him as witness. He submits that the statement of Vijay Kumar could have been recorded on 21.07.2017.

I have heard learned counsel for the petitioners.

Learned counsel has drawn my attention to the issues framed on 01.07.2014. Issue No.7 as framed by the Court reads as under:-

“Whether power of attorney dated 30.10.2001 executed in favour of Sudhir Kumar Gupta is forged and fabricated document? OPD.”

As it is clear from the reading of the aforesaid issues, the onus to prove this issue was on the defendant. Plaintiff had right to lead rebuttal evidence with respect to issue No.7, onus to prove whereof is on the defendant. Vijay Kumar is one of the attesting witness of Power of Attorney dated 30.10.2001.

In view thereof, the plaintiff was only trying to lead evidence in rebuttal with respect to issue No.7. The witness was present on the date when it was fixed for rebuttal evidence.

For the reasons recorded above, the order dated 21.07.2017 is set aside only to the extent that Vijay Kumar would be permitted to be examined in rebuttal on the date fixed by the trial Court within a period of one month from today.

Since this order is being passed without issuance of notice to the defendant, the defendant is granted liberty to move an application for recall of the order, if he feel aggrieved by this order.

Revision petition is allowed.

17.08.2017

Dinesh Bansal

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No