

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.6361 OF 2015 (O&M)
Date of Order: 28th September, 2017

Sat Pal and others

..Petitioners

Versus

Karambir and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Adarsh Jain, Advocate,
for the petitioners.

Mr. Rajpal Singh, Advocate,
for respondents no.2 to 5.

ANIL KSHETARPAL, J.

Defendants-petitioners are in revision petition against order dated 02.09.2015, permitting the plaintiffs to lead additional evidence.

Plaintiffs had filed a suit claiming that predecessor-in-interest of the defendants and the plaintiffs had exchanged the land and instrument of exchange was executed between the parties on 05.11.1976.

On the other hand, defendants disputed execution of the instrument of exchange.

After the parties had concluded their evidence, plaintiffs moved an application with the assertion that they have come to know that predecessor-in-interest of the defendants, namely, Mam Raj and Gajjan sons of Ganga Dan had executed a sale deed dated 29.08.1984. Plaintiffs prayed that they may be permitted to compare the signatures/thumb impressions of Mam Raj and Gajjan on the sale deed dated 29.08.1984 and signatures/thumb impressions appearing on the alleged instrument of

exchange deed dated 05.11.1976.

Taking into consideration the facts available on the file, learned trial Court allowed the application and gave opportunity to the plaintiffs to lead evidence to examine Hand Writing Expert and to give evidence of sale deed dated 29.08.1984 and its mutation.

Defendants have challenged the aforesaid order.

Counsel for the defendants have vehemently argued that the certified copy of the sale deed would be the secondary evidence. He has further submitted that the plaintiffs have only produced a certified copy.

On the other hand, learned counsel for the plaintiffs has stated that one copy of the sale deed bearing original thumb impressions is available in the office of Sub-Registrar and comparison can be made by the Hand Writing Expert from the original thumb impressions/signatures of Mam Raj and Gajjan.

I have considered the submissions of learned counsels and with their able assistance gone through the documents available in the paper book.

At this stage, learned Court has only allowed the application for permission to lead additional evidence. The learned Court would, at an appropriate stage, examine whether such certified copy is a primary evidence or secondary evidence. At this stage, only an application for additional evidence has been allowed. Whenever the evidence is produced on the file, the Court would decide whether such evidence is admissible or not?

Learned trial Court has exercised the discretion while allowing the application for additional evidence. Such exercise of discretion is not

shown to be perverse.

In view thereof, there is no force in the arguments of learned counsel for the petitioners. The revision petition is dismissed.

28th September, 2017
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(ANIL KSHETARPAL)
JUDGE

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