

In the High Court of Punjab and Haryana at Chandigarh

C.R.No. 6456 of 2017(O&M)

Date of Decision:9.10.2017

Mukhtiar Singh

---Petitioner

vs.

Hakam Singh and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Aayush Gupta, Advocate
for the petitioner

Rekha Mittal, J.

CM No. 21093 -CII of 2017

Heard.

Allowed as prayed for. Written statement is taken on record

Subject to just exceptions.

C.R.No. 6456 of 2017

The present petition directs challenge against order dated 6.9.2017 passed by the Civil Judge (Junior Division), Kurukshetra whereby application (Annexure P-2) filed by the petitioner-plaintiff for comparison of signatures and examination of handwriting expert on the basis of comparison, has been dismissed.

Counsel for the petitioner has submitted that the petitioner-plaintiff has staked his claim to the suit property on the premise that

property in the hands of respondent No. 1 Hakam Singh is joint Hindu family ancestral property and petitioner is one of the coparceners. Another plea raised by the petitioner is that there was a writing dated 29.5.1995 and 18.5.1996 of a family settlement whereby agriculture land was divided into six equal shares and the house was divided between plaintiff-petitioner and defendants-respondents No. 2 to 5. It is further argued that Hazur Singh DW-1 denied the family settlement. Immediately thereafter, the petitioner-plaintiff filed the instant application that Hazur Singh has denied his signatures on the compromise and his signatures may be allowed to be compared by an handwriting expert but the learned trial court without appreciating the issue in right perspective as well as relevance and significance of comparison and testimony of handwriting expert has dismissed the application. It is further argued that no prejudice shall be caused to the respondents in case the petitioner is permitted to get the necessary comparison of signatures on compromise deed Ex. P7/B got effected and examine the expert in rebuttal evidence.

I have heard counsel for the petitioner and perused the paper book particularly various annexures including the order impugned.

The petitioner-plaintiff in para 4 of the plaint has averred that after a family settlement/partition took place between the plaintiff and defendants on 29.5.1995 and a writing was also effected on 29.5.1995 and 18.5.1996. The defendant filed the written statement and they have denied any such settlement. A copy of the document was marked as Ex. PW7/B in the statement of the plaintiff. Counsel has fairly informed that in cross examination of the petitioner-plaintiff, the defendants have reiterated their

stand and disputed the version with regard to any such settlement/partition and writing being effected on 29.5.1995 and 18.5.1996. This fact alone is sufficient to establish that the petitioner knew about stand of the respondents-defendants in regard to document Ex. PW7/B since inception of the suit and at least from the stage of filing written statement by the defendants.

The trial court framed the issues on 24.9.2015 and onus of issue regarding merits of the case has been placed upon the plaintiff-petitioner. It is not denied that the petitioner opened his case and availed number of opportunities for adducing evidence but for the reasons best known, he did not seek comparison of signatures on the document Ex. PW7/B by leading evidence in affirmative. The instant application was filed by the petitioner when the parties have already completed their evidence in support of their respective pleadings. The defendants have not examined any expert to substantiate their claim that the document Ex. PW7/B does not bear their signatures. Counsel for the petitioner has failed to advance any meaningful arguments as to how in the circumstances of the present case, the petitioner can be permitted to examine an expert on the basis of comparison by way of rebuttal evidence. The plea of the petitioner raised in the application runs contrary to what has been held in the Division Bench judgment of this Court *Avtar Singh and another vs. Baldev Singh and others*, 2015(5) RCR (Civil) 625.

This apart, the document Ex. PW7/B is a photo copy and not the original document, therefore, permitting the petitioner to get compared the signatures on the photocopy with the sample/specimen signatures of the

defendants is otherwise not tenable. Analyzed from any angle, I do not find any patent error much less illegality in the impugned order warranting interference in exercise of supervisory jurisdiction under Article 227 of the Constitution of India.

For the foregoing reasons, the petition fails and is accordingly dismissed in limine.

(Rekha Mittal)
Judge

9.10.2017
paramjit

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