

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 8247 of 2017

Date of Decision : 11.12.2017

SHARAT KAKKAR

.... Petitioner

Versus

RIPPA SHARMA AND ORS

.... Respondent(s)

CORAM : HON'BLE MR. JUSTICE B.S.WALIA

Present: Mr. Jagram Singh Cooner, Advocate for the petitioner.

Mr. Deepak Sharma, Advocate for respondent No.1.

B.S.WALIA, JUDGE (ORAL)

1. Challenge is to order dated 16.11.2017 i.e. Annexure P/1 passed by the learned Civil Judge (Sr.Divn.), Ambala on the ground that the same is in violation of order dated 27.09.2017 i.e. Annexure P/2 passed by the High Court in Civil Revision No. 6590/2016 and for affording an opportunity to the defendant-petitioner to get the DW Devendra Prasad, Forensic Document Expert examined along with his original report. A perusal of order dated 27.09.2017 reveals that the petitioner was granted one effective opportunity to conclude his evidence by examining handwriting expert Devendra Prasad subject to payment of costs of Rs.5000/- to the plaintiff respondent No.1.

2. Learned counsel for the respondent contended that the impugned order was passed on the ground that as per orders of the High Court, one effective opportunity was to be granted, the same was granted but the original report was not produced by the handwriting expert who requested for an adjournment to produce the same whereupon the trial court rejected

the adjournment sought on the ground that the same would be in violation of the High Court order. Learned Counsel contended that the impugned order did not warrant any interference as no circumstances were made out. Learned counsel contended that the failure of the Handwriting Expert to produce the original report under the misconception that he had already produced the same on record, not being an action in due care and attention, the instant revision petition was liable to be dismissed as the same would amount to this Court reviewing the order passed by a Coordinate Bench.

3. I have considered the submissions made by learned counsel for the parties.

4. CR No. 6590 of 2016 filed by the defendant-petitioner was allowed, and impugned order dated 05.08.2016 passed by learned Civil Judge (Sr. Divn.), Ambala closing the evidence of the defendant-petitioner was set-aside and the learned trial Court was directed to grant one effective opportunity to the defendant-petitioner to conclude evidence by examining the Handwriting Expert Devendra Prasad subject to payment of costs of ₹5000/- to be paid to plaintiff-respondent No.1. Although costs were paid by the defendant-petitioner in terms of order dated 27.09.2017 and Handwriting Expert Devendra Prasad was present in Court, yet an adjournment was sought by the learned counsel for the defendant-petitioner on the ground that the Handwriting Expert had not brought the original report under the misconception that the original report had already been filed in the Court, whereas the position was otherwise.

4. Learned trial Court rejected the prayer for grant of adjournment on the ground that the same would tantamount to violation of the order of the High Court which had categorically granted one effective opportunity to the

defendant-petitioner to conclude his evidence by examining Devendra Prasad Handwriting Expert subject to payment of cost of Rs. 5000/-. In the circumstances, no fault can be found with the order of the learned trial Court.

5. Although, the defendant-petitioner cannot be said to be at fault since production of the original report was the responsibility of the Handwriting Expert, yet the fact remains that in the given set of circumstances, it is not open to the defendant-petitioner to file a revision petition against order dated 16.11.2017.

6. Faced with the aforementioned situation, learned counsel for the defendant-petitioner prays for liberty to file an appropriate application before the Hon'ble Coordinate Bench which had passed order dated 27.09.2017.

7. Needless to mention, if so advised, the defendant-petitioner, would be at liberty to move an appropriate application in C.R No. 6590 of 2016 in accordance with law.

8. Revision petition is dismissed with the aforesaid liberty.

(B.S.WALIA)
JUDGE

December 11, 2017

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| 1. | Whether speaking/reasoned: | Yes/No |
| 2. | Whether reportable: | Yes/No |