

In the High Court of Punjab and Haryana at Chandigarh

CR No. 8356 of 2017

Date of Decision: 29.11.2017

Sudha Bedi

---Petitioner

versus

Ram Saran

---Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Ivneet Singh Babla, Advocate
for the petitioner**

Rekha Mittal, J.

The present petition directs challenge against order dated 3.11.2017 (Annexure P-5) passed by the Additional Civil Judge (Senior Division), Shahabad, whereby application filed by the petitioner-plaintiff for permission to get compared signatures of respondent/defendant, has been dismissed.

Counsel for the petitioner has submitted that as the trial court has not framed a specific issue with regard to purported signatures of defendant on the sale deed dated 3.10.2013 as an attesting witness and on the affidavit of even date executed by him and the defendant denied his signatures on the documents in his cross examination, a serious prejudice shall be caused to the petitioner in case he is not permitted to get the disputed signatures/thumb impressions compared from an handwriting and finger-prints expert. It is further submitted that examination of the expert would rather facilitate complete, effective and just decision of the case.

I have heard counsel for the petitioner, perused the paper book particularly the application for permission to seek comparison (Annexure P-3), reply thereto (Annexure P-4) and the order impugned.

The petitioner has filed a suit for possession with consequential relief of permanent injunction in respect of plot measuring 6 marlas, detailed in para 1 of the plaint stated to be purchased by the petitioner vide sale deed dated 3.10.2013 from its erstwhile owner. As per plea of the petitioner, Ram Saran defendant is in possession of the suit property and he signed the sale deed as an attesting witness and further executed affidavit dated 3.10.2013 undertaking to hand over vacant possession of the suit property to the petitioner/plaintiff. The parties adduced evidence in support of their respective contentions. Perusal of the written statement filed by the defendant/respondent makes it evident that he denied execution of the affidavit with the averment that affidavit has been forged and fabricated by the plaintiff in collusion with the Deed Writer. As the defendant has categorically denied execution of the affidavit relied upon by the petitioner, nothing emerged new or came by surprise if the defendant denied his signatures on the affidavit in cross examination to accept plea of the petitioner that he is entitled to an opportunity to seek comparison of the disputed signatures/thumb impressions at the stage of rebuttal evidence.

This apart, perusal of certified copy of order dated 17.9.2015 framing issues, made available during course of hearing makes it evident that no such issue was framed by the Court onus whereof has been placed upon the defendant in regard to which the plaintiff can claim leading evidence in rebuttal more particularly in the circumstances that there is nothing on record suggestive of the fact that the petitioner/plaintiff reserved

her right to adduce evidence in rebuttal. In this view of the matter, I do not find any error much less illegality in the impugned order warranting intervention.

For the foregoing reasons, the petition fails and is accordingly dismissed in limine. Nothing stated hereinbefore shall be construed as an expression of opinion on merits of the case.

(Rekha Mittal)
Judge

29.11.2017

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No