

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.**

CR No.95 of 2017.

Date of Decision: 12.01.2017.

Parmod

....Petitioner.

VERSUS

S.D.O. (OP), Dakshini Haryana Bijli Vitran Nigam and another

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Virendra Rana, Advocate for the petitioner.

SNEH PRASHAR, J.

This revision petition is directed against the order dated 06.12.2016 passed by learned Civil Judge (Junior Division), Mewat by virtue of which the application filed by the petitioner seeking permission to lead additional evidence was dismissed.

The facts which need to be referred are that in a suit for declaration and consequential relief of permanent mandatory injunction filed by the petitioner-plaintiff, he filed an application for adducing additional evidence when the case was at the stage of rebuttal evidence. His plea was that he had never committed theft of electricity and that the checking team of the defendants-respondents had never visited the alleged site and further that the LL-1 and memo No.990 and 879 dated 04.09.2015 are forged and fabricated documents as signatures of A.L.M. Satish, Anil

signatures on the complaint register etc. of the DHBVNL. Accordingly, he prayed that he be allowed to get compared the signatures of the A.L.M(s). on LL-1 form (Ex.P4) with the signatures on the complaint register through an expert.

The respondents-defendants resisted the application. Considering the rival contentions of the parties and the submissions made on their behalf, learned trial Court dismissed the application vide order dated 06.12.2016. Aggrieved against the said order, the petitioner has filed the instant petition.

The submissions made by Mr. Virendra Rana, learned counsel for the petitioner have been considered.

Learned counsel for the petitioner argued that the instant suit for declaration with consequential relief of permanent injunction was filed by the petitioner challenging the memos dated 04.09.2015 issued to the petitioner by the respondents imposing a penalty of Rs.43,471/- levelling allegation that the petitioner had indulged in theft of electricity. The petitioner had denied that his premises were ever checked by the vigilance team of the respondents. The fact that the signatures of the members of the vigilance team, who were officials of the respondents, on the inspection memo (LL-1) do not tally with the signatures of the said officials in the complaint register, would show that the story of inspection of the respondents and their allegation of theft of electricity arising out of alleged inspection was false. In said circumstances, comparison of the signatures of the officials of the respondents on the documents of the respondents by a Finger Print and Handwriting Expert is necessary.

First of all, the evidence, which the petitioner intends to lead by

way of additional evidence, if at all necessary, was supposed to have been led by the petitioner at the appropriate time i.e. when he was given opportunity to lead evidence in affirmative. Secondly, it is apparent that only to delay the proceedings, the petitioner has filed the instant application. It is not the case of the petitioner that he had examined or the respondents had examined any official, who had inspected his premises on the relevant date to whom the signatures on memo LL-1 were put and he admitted or denied the same. It is also not the case that the complaint register, if any, bearing signatures of the same officials was proved in evidence either by the petitioner or by the respondents. From the copy of the statement of Rashid, Junior Engineer (Annexure-P5) produced by the petitioner, it comes out that the inspection of the premises of the petitioner was conducted in his presence. He proved the relevant documents, but it was not suggested to him by the petitioner that Satish, Anil and Tahir, A.L.M(s)., whose signatures are present on the inspection memo (LL-1) were forged or fabricated. Without there being any dispute with regard to the signatures of the officials on the relevant documents, the question of examination of a Handwriting and Finger Print Expert for proving the said signatures does not arise. The petitioner cannot make out a new case at the fag end when the case is at the stage of rebuttal evidence.

Thus, there being no merit in the petition, it is hereby dismissed.

(SNEH PRASHAR)
JUDGE

12.01.2017.
jitender sharma

Whether speaking/ reasoned : **Yes**

Whether Reportable : **No**