

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

**RA-CR No.253-CII of 2016 (O&M)
CR No.5445 of 2016
Date of Decision.23.08.2017**

Surinder Kaur

.....Petitioner

Vs

Paramjit Singh and others

.....Respondents

Present: Mr. R.S. Bajaj, Advocate
for the applicant-respondent No.1.

Mr. Avtar Singh Bhatti, Advocate
for the non-applicant/petitioner.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J.(ORAL)

C.M. No.17284-CII of 2017

Application is allowed.

Reply filed on behalf of the non-applicant/petitioner is taken on
record.

RA-CR No.253-CII of 2016

The review application has been filed on behalf of the
applicant-plaintiff/respondent No.1 seeking modification of the order dated
29.08.2016. This Court while disposing of the revision petition at the
instance of the defendant-petitioner challenging the order dated 28.07.2016
whereby the trial Court granted permission to examine the Will dated
27.06.1998 through the service of an expert, had ordered that the signatures
of Joga Singh be examined by Forensic Science Laboratory, Mohali.

The review of the aforementioned order has been sought on the
premise that before the revision could be filed on 19.08.2016, on

the presence of the counsel and the report was also tendered on 30.08.2016. However, on 29.08.2016, this Court while disposing of the revision petition modified the order dated 28.07.2016 to the extent that instead of examination of the Will by private expert, it was ordered to be examined by Forensic Science Laboratory, Mohali. Had the aforementioned point been noticed, perhaps this Court would not have modified the order.

He further pointed out in the revision petition that there is no reference of the zimni order dated 16.08.2016 and therefore, this Court has been prevented from its knowledge.

Mr. Bhatti, learned counsel appearing on behalf of the non-applicant/petitioner submits that the aforementioned information i.e. factum of zimni order dated 16.08.2016 has not been apprised to him by his client. Had it been so, he would have definitely disclosed this fact in the revision petition. Even otherwise, he submits that no prejudice and harm would be caused to the plaintiff in case the Will in dispute i.e. Will dated 27.06.1998 is examined by Forensic Science Laboratory, Mohali which carries more weight than the private expert.

I have heard learned counsel for the parties and appraised the paper book. The order dated 16.08.2016 whereby the handwriting expert taken the pictures and as well as the order dated 30.08.2016 whereby the report was tendered in the presence of the parties read as under:-

“Order dated 16.08.2016

*Present: Mr. S.C. Chadda, Advocate
for the plaintiff.*

*Mrs. Kamlesh Rani, Advocate
for respondent Nos.1 to 4.*

Remaining defendants ex parte.

PW2 Paramjit Singh present and cross examined completely. PW3 Harjit Singh and PW4 Karnail Singh present and examined completely. No other PW present today. Handwriting expert taken the photographs of signatures of Joga Singh with the permission of court. Now case is adjourned to 30.08.2016 for awaiting report of handwriting expert and also for remaining PWs being last opportunity. Dasti summons be taken at own responsibility.”

Order dated 30.08.2016

*Present: Mr. S.C. Chadda, Advocate
for the plaintiff.*

*Mrs. Kamlesh Rani, Advocate
for respondent Nos.1 to 4.*

Remaining defendants ex parte.

Today counsel for the plaintiff tendered into evidence the report of handwriting expert and photographs. Copy supplied. On request of counsel for the plaintiff, case is adjourned to 13.09.2016 for evidence of the plaintiff. Dasti summons be taken at own responsibility.”

This court had been prevented from the aforementioned fact. Had it been so, I would not have modified the order under challenge. If at all, the grievance of the non-applicant/petitioner is in existence, she can always seek opportunity to rebut the report of the expert examined by the plaintiff in the way and the manner, she chooses to do.

Keeping in view the aforementioned facts, there is error apparent on the face of the record. Resultantly, the order dated 29.08.2016 passed by this Court is modified and the order dated 28.07.2016 challenged

in the revision petition is upheld with the aforementioned observations. The revision petition is dismissed.

The review application is allowed.

August 23, 2017
Pankaj*

(AMIT RAWAL)
JUDGE

Whether reasoned/speaking	Yes
Whether reportable	No