

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

**Civil Revision No.1080 of 2017 (O&M)
Date of decision: May 17, 2018**

Atul Kumar Goel

...Petitioner

Versus

Ashok Kumar and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Rajiv Sharma, Advocate
for the petitioner.

Mr.U.K.Agnihotri, Advocate
for respondent No.1.

INDERJIT SINGH, J.

Petitioner Atul Kumar Goel has filed this revision petition against respondents Ashok Kumar and Haryana Urban Development Authority (HUDA) through its Administrator under Article 227 of the Constitution of India for setting aside the order dated 21.12.2016 passed by learned Civil Judge (Junior Division), Gurgaon, vide which the application filed by defendant-respondent No.1 for recalling original police file etc. was allowed

Notice of motion was issued to respondent No.1 only. Learned counsel for respondent No.1 appeared and contested the petition.

I have heard learned counsel for the parties and have gone

through the record.

From the record, I find that Atul Kumar Goel plaintiff-petitioner filed a suit against defendants Ashok Kumar and HUDA for specific performance. During the pendency of the suit, an application was filed by defendant Ashok Kumar for recalling the original police file, register of stamp vendor and HUDA file for the purpose of examination of expert by applicant/defendant no. 1 for comparing his alleged signatures from the stamp vendor's register with his admitted signatures. The register of the stamp vendor was taken into custody by the police in case FIR No.35 of 2007. It is further stated in the application that the applicant-defendant No.1 has disputed his signatures over the stamp vendor register, therefore, stamp vendor register be summoned in this case, so that signatures be taken for comparison by the expert. Simultaneously, an application for allowing the expert to examine the case file, alleged agreement and to take the photographs from the court file, HUDA; for summoning police file was also filed, besides a second application for summoning of the witnesses for the above said purpose.

Learned counsel for the plaintiff-petitioner objected the applications by contending that the applications have been filed just to delay the proceeding of this case. He further contended that applicant-defendant No.1 has already availed several opportunities for leading evidence but instead of concluding the evidence, he has filed present applications just to prolong the proceedings of this case. As far as second application for summoning of witnesses is concerned, applicant was supposed to file the list of witnesses within prescribed stipulated period of 15 days. It is also

witnesses, need to be first filed in the court after obtaining leave of the court.

Learned Civil Judge (Jr. Divn.) Gurgaon, vide order dated 21.12.2016 allowed the applications and ordered that applicant is permitted to examine the handwriting expert and police file under which stamp vendor's register is attached, be also summoned and allowed the handwriting expert to take the photographs of the admitted signatures of the applicant as well as questioned signatures from the stamp vendor's register.

After perusing the record and after hearing learned counsel for the parties, I find that merely on the ground that applications will delay the proceedings, the same cannot be dismissed. It is settled law that rights of the parties should be determined on merit as far as possible. Respondent-Defendant No.1 is denying his signatures on the stamp vendor's register whereas the plaintiff's case is that defendant No.1 had purchased the stamp papers. The applicant-defendant No.1 wants to prove by bringing expert that the questioned signatures are not his signatures. No prejudice will be caused to the plaintiff-petitioner as he will get the opportunity to cross-examine the expert witness. The stamp vendor's register is already on the police file. The evidence, which the applicant-defendant No.1 wants to produce is necessary for the just decision of the case.

Keeping in view above discussion, I find that no illegality has been committed by learned Court below while passing the impugned order. The impugned order dated 21.12.2016 passed by learned Civil Judge (Jr. Divn.), Gurgaon, is correct, as per law and does not require any interference from this Court.

Therefore, finding no merit in the present petition, the same is

dismissed.

As the main case is decided, therefore, civil misc. applications,
if any, also stand disposed of.

May 17, 2018
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No