

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Civil Revision No.1487 of 2018

Date of Decision: 07.03.2018

M/s Hans Raj Bhim Sain

....Petitioner (s)

Versus

Subhash & others

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. Manoj Sharma, Advocate
for the petitioner(s).

HARI PAL VERMA, J. (Oral)

Petitioner has filed the present revision petition under Article 227 of the Constitution of India, impugning the order dated 20.01.2018 (Annexure P-1) passed by Additional Civil Judge (Sr. Division), Fatehabad, whereby on an application moved by the defendant-respondents, the civil court has directed the petitioner-plaintiff to produce his brother namely Ramesh Kumar, who has already been examined as PW-2, to give his specimen signatures so as to get it compared with the receipt annexed by the respondent-defendants, from some hand writing and finger print expert.

Learned counsel for the petitioner, while making reference to Section 73 of the Evidence Act, 1872 (for short, "the Act"), has argued that the signatures of brother of the petitioner are already on record, as during his examination, he had put his signatures after conclusion of his evidence.

He further submits that the trial Court has failed to consider the provisions

of Section 73 of the Act, wherein the Court has no power to allow such application, as it can direct only that person to give specimen writing who 'is present in the Court' and at the time when the aforesaid Ramesh Kumar was being examined as PW-2, no such application was moved by the defendant-respondents. Therefore, the provisions of Section 73 of the Act have not properly been interpreted by the Civil Court.

I have heard learned counsel for the petitioner and perused the impugned order.

The word 'any person present in the Court' does not refer to a person physically present in the Court, rather it refers to such person also who is party to a '*lis*' pending before the Court and in a given case, it include a witness as well. Even though Ramesh Kumar has already been examined as PW-2, still the direction given by the trial Court to the plaintiff-petitioner to produce him, falls within the aforesaid provisions of Section 73 of the Act, as 'any person present in Court' does not mean that a person, who has already appeared before the Court and has been examined as well.

Therefore, this Court does not find any illegality in the impugned order dated 20.01.2018 (Annexure P-1) passed by Additional Civil Judge (Sr. Division), Fatehabad.

Accordingly, the present revision petition is dismissed.

March 07, 2018
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No