

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

CR No.1920 of 2018(O&M)

Date of decision: 26.3.2018

Kirpal Singh (since deceased) through is LRsPetitioner

VERSUS

Jagdev Singh (since deceased) through his LRs and another
.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. A.P. Batra, Advocate for the petitioner.

REKHA MITTAL, J. (Oral)

The present petition directs challenge against order dated 22.02.2018 (Annexure P-7) passed by the Additional Civil Judge (Senior Division), Sri Muktsar Sahib whereby application for permission to adduce additional evidence to examine the witnesses has been allowed partly and prayer of the petitioner to examine Sh. Anil Kumar Gupta, Handwriting and Fingerprints Expert mentioned in para 1 of the application and inquiry report conducted by Surinder Singh Singla, Naib Tehsildar Lakhewali detailed in para 3 thereof and examination of Record Keeper of Deputy Commissioner's office along with original mortgage deed bearing vasika No.6593 dated 13.03.1973 executed by Kirpal Singh in favour of Surjit Singh and Jagjit Singh sons of Jagdev Singh has been dismissed.

Counsel for the petitioner has submitted that as original rapt No.333 dated 25.03.1988 could not be brought on record by the petitioner despite exercise of due diligence who examined Halqa Patwari Avtar Singh

and Harmeet Singh, Patwari for the purpose but the said rapt in original was produced at the time of evidence adduced by the defendants/respondents, a serious prejudice shall be caused to the petitioner in case he is not permitted to get produce copy of the mortgage deed from the office of Deputy Commissioner concerned and thereafter, getting the disputed thumb impressions of Kirpal Singh on rapt No.333 dated 25.03.1988 compared with thumb impressions of Kirpal Singh on mortgage deed bearing Vasika No.6593 dated 13.03.1973. It has further been argued that as the inquiry report dated 09.11.2017 came into existence subsequent to closing of evidence by the petitioner/plaintiff, the petitioner could not produce that inquiry report at an appropriate stage of the proceedings.

I have heard counsel for the petitioner, perused the paper-book particularly the order impugned.

The trial Court has permitted additional evidence in regard to examination of Surinderpal, Retired Patwari mentioned in para 2 of the application. The petitioner has sought to examine an expert on the basis of comparison of disputed thumb impression on rapt No.333 dated 25.03.1988 with standard thumb impressions of Kirpal Singh on mortgage deed dated 13.03.1973 sought to be got produced from the office of Deputy Commissioner, Sri Muktsar Sahib. Indisputably, mortgage deed dated 13.03.1973 is not the subject matter of dispute in the lis filed by Kirpal Singh (since deceased). The petitioner did not seek to examine a witness to prove the said mortgage deed particularly with regard to the factum of the same having been thumb marked by Sh. Kirpal Singh, to be used for obtaining standard thumb impression(s) for the purpose of

comparison. In the given scenario, no useful purpose would be served by getting thumb impressions on two documents compared from the so-called expert and examine him as a witness. In this view of the matter, contention raised by counsel for the petitioner that a serious prejudice shall be caused to the petitioner in case he is not permitted to examine the Handwriting Expert is devoid of merit and liable to be rejected.

So far as the plea with regard to production of inquiry report dated 09.11.2017, nothing has been stated in the application as to how production of said document would advance cause of justice in order to seek indulgence of the Court in exercise of its discretionary jurisdiction. That being so, I do not find an error much less illegality in the impugned order warranting intervention.

For the foregoing reasons, the petition fails and is accordingly dismissed in limine.

MARCH 26, 2018
'D. Gulati'

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no