

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.508 of 2017

Date of Decision : 14.08.2018

Jatinder Singh

....Petitioner

VERSUS

Satinder Singh

...Respondent

CORAM : HON'BLE MR. JUSTICE B.S. WALIA

Present: Mr. Raman Mohinder Sharma, Advocate for the petitioner.

Mr. R.K. Dogra, Advocate for the respondent.

B.S. WALIA, JUDGE (ORAL)

1. Challenge in the revision petition under Article 227 of the Constitution of India is to order dated 22.12.2016 passed by the learned Civil Judge (Sr. Division), Mansa directing the petitioner-defendant to give specimen signatures for the purpose of comparison with the photocopy of alleged agreement of family partition dated 29.4.2011.

2. Learned counsel contends that application was filed by the respondent-plaintiff for directing the petitioner-defendant and witnesses i.e. Sukhpal Sharma and Balbir Singh to give specimen signatures for comparison with photocopy of writing dated 29.04.2011 in which the petitioner-defendant had signed as party to the alleged settlement while Sukhpal Sharma and Balvir Singh had signed as witnesses.

3. The learned Civil Judge (Sr. Division), Mansa allowed the application and directed the petitioner-defendant as well as witnesses to the writing dated 29.4.2011 to give their handwriting in Court for the purpose of comparison with the handwriting on photocopy of writing dated 29.04.2011.

4. Learned counsel for the petitioner by relying on the decision of a Coordinate Bench of this Court in case titled as **Ramo Bai and others versus Vidya Rani & others 2012(1) PLR 117** contended that comparison of signatures was permissible only with the original document and not with a photocopy. Relevant extract of the same is reproduced as under :

“7. The plaintiff-petitioners admittedly had not produced the original Will dated 7.6.1997 allegedly executed by Hardial Ram which was said to be scribed by Ram Lubhaya Kamboj, Advocate. In the absence of original Will, it would not be legally justified to allow the plaintiff-petitioners for comparison of signatures and handwriting of Ram Lubhaya Kamboj, Advocate on the photo copy of the Will. The said comparison cannot constitute an authentic proof of execution of Will especially in these days of computerization when signatures of a person can be lifted from one place and put at another place by superimposition. Equally, in the absence of original document available for comparison of handwriting, it would be dangerous to allow such comparison from photo copy of the document.”

5. Learned Counsel also referred to the decision in **Surjit Rai vs Prem Kumar and others, 1995(2) PLR 140** wherein it was held that in the absence of production of original agreement on record, signatures could not be compared with photocopy of agreement because of advancement in technology and possibility of lifting of signatures of a person from one document and superimposing the same on another document. The aforementioned decision was relied upon in **Ramo Bai’s** case (supra). Relevant extract of aforementioned decision is reproduced as under :

“Original agreement has not been produced on the record. In my view, signatures cannot be compared from the photocopy of

the agreement because in these days of advance technology, signatures of a person can be lifted from one document and put on another document by superimposition.”

6. Reliance was also placed on the decision in **Karnail Singh vs M/s Kalra Brothers, 2009 (4) CCC 110** which was also referred to in **Ramo Bai's case (supra)** wherein it was held that signatures cannot be compared with the photocopy of an agreement.

7. On query, learned counsel for the respondent fairly conceded that except for the signatures, rest of the document dated 29.04.2011 is a typed document.

8. Since the impugned order directs providing of specimen signatures for the purpose of enabling comparison with signatures on a photocopy of document dated 29.04.2011, the judgments relied upon by learned counsel for the petitioner are squarely applicable to the facts of the instant case.

9. Accordingly, the revision petition is allowed and order dated 22.12.2016 passed by the learned Civil Judge (Sr. Division), Mansa is set aside.

10. At this stage, learned counsel states that the setting aside of the impugned order be clarified as not affecting the right of the respondent to lead secondary evidence to prove the signatures of the petitioner / witnesses.

11. Needless to mention, it would be open to the respondent to lead secondary evidence in accordance with the provisions of law applicable.

August 14, 2018

ps

(B.S. WALIA)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No