

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

(223)

CR No.7857 of 2013

Date of Decision: 23.04.2018

Lakhmir Singh

.....Petitioner

Vs.

Tejinder Pal Kaur and others

.....Respondents

CORAM:- HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Sandeep Jasuja, Advocate
for the petitioner.

Mr. Ashok Aneja, Advocate
for the respondents.

KULDIP SINGH, J.(Oral)

Impugned in the present revision is the order dated 25.11.2013 (Annexure P.5) passed by the learned Civil Judge (Junior Division), Fazilka vide which an application filed by defendant No.6, namely, Lakhmir Singh to take photograph and another application filed to examine the expert was declined.

I have heard learned counsel for the parties.

It comes out that a suit is pending on behalf of the plaintiffs for declaration that they being the legal heirs of Ajaib Kaur are owners in possession of the suit land. During his evidence, defendant No.6 moved the said application stating that Ajaib Kaur was in possession of land measuring 115 kanals 10 marlas of land. Lakhmir Singh- defendant No.6 purchased

the said land from Ajaib Kaur under Section 18 of the Punjab Security Land of Tenures Act, 1953. Now the thumb impressions of defendant- Lakhmir Singh on the said application are not admitted by opposite party, therefore, Lakhmir Singh wants to take the photographs of said thumb impressions and examine the Expert to prove that thumb impressions on the said application are of him. The application was declined by the trial Court on the ground that the defendants have already availed six opportunities including three last opportunities but not even single witness has been examined till date, therefore, application has been filed to delay the proceedings. It was further stated that the case falls in the category of “more than 5 year old cases” as well as in “Action Plan”.

I am of the view that the trial Court was more influenced by the fact that the case falls in the category of “Action Plan” and should be disposed of one way or the other. When the evidence of defendant No.6 is still going on, he was entitled to lead evidence to disprove the case of the plaintiffs. The mere fact that the case falls in the category of “Action Plan” is not sufficient to dismiss the application. Consequently, the revision is allowed. The impugned order dated 25.11.2013 passed by learned Civil Judge (Junior Division), Fazilka is set aside. Defendant No.6- Lakhmir Singh is allowed to furnish his thumb impressions before the trial Court and he is also allowed to take the photographs and also examine the Expert by producing him under his responsibility on the date fixed by the trial Court. However, the copy of the report of Expert shall be supplied in advance to the opposite party to enable them to cross-examine him on the said date.

Needless to say that for taking the photographs, the defendant –
Lakhmir Singh shall be entitled to summon the said file from the Court of
Assistant Collector.

April 23, 2018
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(KULDIP SINGH)
JUDGE

Whether Speaking/reasoned	Yes
Whether Reportable	No