

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

Civil Revision No.9172 of 2017.
Decided on:-January 08, 2018.

Gurpal Singh.

.....Petitioner.

Versus

Gurmej Singh.

.....Respondent.

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

Present:- Mr. Daljeet Singh Kahlon, Advocate
for the petitioner.

HARI PAL VERMA, J.

This petitioner has filed present civil revision petition under Article 227 of the Constitution of India impugning the order dated 01.12.2017 (Annexure P-6) passed by learned Civil Judge (Junior Division), Amritsar, whereby the application filed by the respondent-plaintiff under Section 45/73 of the Indian Evidence Act, 1872 to examine the handwriting expert for the purpose of comparison of his signatures appended on the alleged Will dated 22.07.2005, was allowed.

Briefly stated, the respondent-plaintiff had filed a suit against the petitioner-defendant for declaration to the effect that the plaintiff is owner in possession of the property, as detailed in the plaint, and the alleged Will dated 22.07.2005 executed by Hazara Singh son of Maghar Singh in favour of the petitioner-defendant is illegal, as the same is result of fraud,

misrepresentation, impersonation and concoction and, therefore, the said Will has no binding effect on the rights of the respondent-plaintiff.

During the pendency of the suit, the respondent-plaintiff filed an application under Section 45/73 of the Indian Evidence Act, 1872 to examine a fingerprint/handwriting expert so as to compare his signatures with the signatures appended on the Will dated 22.07.2005.

Vide impugned order dated 01.12.2017 (Annexure P-6), learned civil Court has allowed the said application.

It is against the said order, the petitioner-defendant has filed present civil revision petition.

Learned counsel for the petitioner-defendant has argued that vide impugned order dated 01.12.2017, the civil Court has wrongly granted an opportunity to the respondent-plaintiff to examine a handwriting expert. Moreover, such permission has been granted at a very belated stage which has caused prejudice to the petitioner. In case the respondent-plaintiff is allowed to examine a handwriting expert, it will cause an irreparable loss to the petitioner which cannot be compensated in any manner.

He has further argued that it is at the stage when the respondent-plaintiff had already closed his evidence vide his statement, the present application under Section 45/73 of the Indian Evidence Act, 1872 for comparison of signatures has been filed by the respondent-plaintiff at a much belated stage.

I have heard learned counsel for the petitioner-defendant.

In the suit, the respondent-plaintiff has also impugned the alleged Will dated 22.07.2005 executed by Hazara Singh son of Maghar Singh. As per the said Will dated 22.07.2005, the respondent-plaintiff is a witness of the Will, whereas the case of the plaintiff is that he has never witnessed the said Will. Even otherwise, the name of the plaintiff is Gurmej Singh, but on the alleged Will, it has been mentioned as 'Gaje Singh' and it is in these circumstances, the aforesaid application has been filed by the respondent-plaintiff for comparison of his signatures. The suit for declaration has been filed by the plaintiff claiming himself to be owner in possession of the suit property. The plaintiff has claimed that he has never signed the alleged Will dated 22.07.2005 as a witness and the signatures appended on the said Will as Gaje Singh have not been made by him. The plaintiff used to sign as Gurmej Singh, but as the evidence with regard to execution of the alleged Will was yet to be led by the petitioner-defendant during his evidence, the contention of the counsel for the petitioner that the respondent-plaintiff cannot examine handwriting and fingerprint expert in rebuttal evidence, cannot be accepted. The respondent-plaintiff has every right to prove his case that he has never signed the alleged Will dated 22.07.2005 as a witness and he can certainly prove this fact with the help of a handwriting expert. Therefore, this Court does not find any illegality in the impugned order dated 01.12.2017 passed by learned civil Court.

Accordingly, the impugned order dated 01.12.2017 (Annexure P-6) passed by learned Civil Judge (Junior Division), Amritsar is affirmed and the instant civil revision petition, being devoid of any merit, is dismissed.

It is, however, made clear that the observations made hereinabove shall not be construed as an opinion on the merits of the suit.

January 08, 2018
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No