

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

Sr. No.203

CR-3867-2018

Date of decision: 19.07.2019

Harbans Singh

....Petitioner

versus

Krishan Kumar

....Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. P.K.S. Phoolka, Advocate
for the petitioner.

Mr. M.S. Viridi, Advocate
for the respondent.

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DEEPAK SIBAL, J. (Oral)

The present petition is directed against the order dated 09.05.2018 passed by the Additional Civil Judge (Senior Division), Mansa, through which an application filed by the petitioner seeking therein issuance of directions to the respondent to provide his specimen handwriting for getting it compared with his handwriting on the documents on the record of the case has been rejected.

The facts, in brief, which are required to be noticed for adjudicating upon the present petition are that the respondent filed a suit seeking therein to recover from the petitioner an amount of Rs.11,64,000/- alongwith future interest. The grounds on which such claim was made being not relevant for the purpose of adjudication of the present petition are not being referred to.

On being put to notice, the petitioner, who was the defendant in

the suit, appeared before the Trial Court and filed his written statement through which he inter alia submitted that certain cheques of his which were with the respondent/plaintiff had been misused by him and on the basis of such cheques the respondent had filed his recovery suit.

The Trial Court framed issues and thereafter, both parties led their respective evidence. When the suit was listed for rebuttal evidence/arguments, the petitioner filed an application seeking therein to examine a handwriting expert to compare the handwriting of the respondent on the cheques in question with his admitted handwriting.

Through order dated 19.04.2018, the aforesaid application filed by the petitioner was allowed by the Trial Court permitting the petitioner to examine an expert who was further permitted to inspect the file for the said purpose in the presence of both parties.

Since on the record of the case only signatures of the respondent were available and not his handwriting, the petitioner filed another application seeking issuance of a direction to the respondent to provide his specimen handwriting so that the same could be compared by the handwriting expert in terms of the earlier order passed by the Trial Court on 19.04.2018. On 09.05.2018, the Trial Court dismissed the petitioner's application primarily on the ground that the plea of the petitioner to provide specimen handwriting of the respondent had not been accepted to by the Trial Court in its earlier order dated 19.04.2018. Directions were issued by the Trial Court that in terms of its earlier order dated 19.04.2018, the handwriting expert would compare only the signatures of the respondent with his signatures which were available on the record of the case. Such order is under challenge in the present proceedings.

Learned counsel for the parties have been heard.

While defending a suit for recovery filed by the respondent inter-alia the case set up by the petitioner/defendant was that there were certain cheques of his which are lying with the respondent which had been misused by the respondent as they were made the basis for institution of his recovery suit.

He filed an application for comparison of the handwriting of the respondent on these cheques with his admitted handwriting. Such application was allowed by the Trial Court through its order dated 19.04.2018 and resultantly, a handwriting expert was permitted to inspect the file for the said purpose. After inspection, it was found that there was no specimen handwriting of the respondent on the record and only his signatures existed. Therefore, another application was filed by the petitioner for the issuance of a direction to the respondent to provide his specimen handwriting which has been dismissed through the order impugned through the present petition.

Once through order dated 19.04.2018, the Trial Court permitted examination and comparison of the handwriting of the respondent on the cheques in question which order was not challenged by the respondent and that the specimen handwriting of the respondent was found not to exist on the record of the file, then to make effective the aforesaid order dated 19.04.2018, the Trial Court should have directed the respondent to provide his specimen handwriting as otherwise the object and purpose behind order dated 19.04.2018 would get defeated.

Further, examination of the handwriting of the respondent on the cheques in question alongwith his signatures would go to the very root

of the matter and a report by the handwriting expert in this regard would certainly assist the Trial Court in arriving at a just decision. Thus, the Trial Court fell in error in dismissing the petitioner's application through which a direction was sought to be issued to the respondent to give his specimen handwriting.

In view of the above, the impugned order is set aside and the application filed by the petitioner dated 03.05.2018 (Annexure P-5) is allowed. Resultantly, the respondent is directed to provide his handwriting to be compared with his handwriting on the cheques in question.

The petition is allowed in the above terms.

(DEEPAK SIBAL)
JUDGE

July 19, 2019
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Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No