

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 202

CR-8434-2015

Date of decision : 28.02.2019

Om Parkash

..... Petitioner

VERSUS

Pankaj Kumar Wadhwa

..... Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Abhinav Sood, Advocate, for
Mr. Vikram Singh, Advocate, for the petitioner.

DEEPAK SIBAL, J. (ORAL)

The present petition is directed against the order dated 30.11.2015, passed by the Civil Judge (Junior Division), Karnal (for short, the Trial Court), dismissing the application filed by the petitioner under Section 151 CPC through which he had sought to compare the alleged signatures of the respondent on the register of the Stamp Vendor with his admitted signatures on the plaint and power of attorney submitted before the Trial Court.

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 specific performance of agreement dated 22.11.2013. Consequential relief of permanent injunction was also sought. On being put to notice, the petitioner, who is the defendant before the Trial Court, appeared and filed his written statement through which he admitted the execution of the aforesaid agreement dated 22.11.2013 but stated that it was the respondent who had breached the aforesaid agreement by not presenting himself before the Sub Registrar at the time agreed by both the parties to get the sale deed registered. Thereafter, the Trial Court framed the issues.

After the respondent had led his entire evidence and the petitioner was in the midst of leading his evidence, an application was filed by the petitioner seeking therein to compare the alleged signatures of the respondent on the register of the Stamp Vendor with his admitted signatures on the plaint and power of attorney submitted before the Trial Court. The Trial Court dismissed the aforesaid application through the order which is under challenge in the present proceedings.

Mr. Abhinav Sood, Advocate, who appears on behalf of the petitioner, has been heard.

In spite of service, no one has appeared on behalf of the respondent.

The respondent filed a suit seeking therein specific performance of agreement to sell dated 22.11.2013. The petitioner has admitted the aforesaid agreement. However, the case set up by the petitioner is that it is the respondent who has breached the said agreement by not presenting himself before the Sub Registrar at the time agreed by both the parties to get the sale deed registered. In order to prove his case, several witnesses have been produced by the petitioner including PW-4 Stamp Vendor, who deposed before the Trial Court that he had sold the stamp paper to the respondent on the date when both the parties were supposed to appear before the Sub Registrar and as a token of such transaction the respondent had appended his signatures on the register maintained by PW-4. Such register was duly exhibited. With an attempt to rebut the above fact and in support of the case set up by the petitioner, while he was in the midst of leading his evidence, an application was filed by him seeking therein to compare the

signatures of the respondent on the register of the Stamp Vendor (PW-4) with his admitted signatures on the plaint and power of attorney submitted before the Trial Court.

The core issue to be adjudicated upon in the trial is whether, to get the sale deed registered, the respondent was present before the Sub Registrar on the date agreed by the parties. The evidence sought to be produced by the petitioner would certainly assist the Trial Court to decide the afore issue and therefore, the Trial Court erred in rejecting such application especially when the petitioner had filed the same at the stage when he was in the midst of leading his evidence.

The reason given by the Trial Court to reject the petitioner's application that the petitioner should have produced the person who had in fact impersonated the respondent before the Stamp Vendor (PW-4), is found to be perverse.

In view of the above, the impugned order is set aside and resultantly, the prayer made by the petitioner in his application under Section 151 CPC before the Trial Court is accepted. Since the respondent's suit had been filed nearly five years ago, it is directed that the Trial Court shall make every endeavour to dispose of the same expeditiously but not later than four months from the date of receipt of a certified copy of this Court.

The present petition is allowed in the above terms.

28.02.2019
shamsher

[DEEPAK SIBAL]
JUDGE

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No