

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 1834 of 2019

Date of Decision: 08.04.2019

Charanjit Kaur

.....Petitioner

Vs.

Hardev Singh

.....Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Preetwinder Singh Dhaliwal, Advocate,
for the petitioner.

Mr. Gaurav Sharma, Advocate,
for the respondent.

AMOL RATTAN SINGH, J. (ORAL)

By this petition, the petitioner challenges the order of the learned trial Court dated 02.03.2019, dismissing her application seeking that the revenue stamps affixed on the pronote relied upon by the respondent-plaintiff, and the receipt in respect of the money alleged to have been received by the petitioner-defendant on the strength of that pronote from the respondent-plaintiff, be both got verified from the Government Press at Nasik.

As per the petitioner, the revenue stamps as were affixed on the pronote and the receipts, were not in existence at the time when the pronote is alleged to have been got thumb marked from her by the respondent, (to the effect that he had lent her a sum of Rs. 20,00,000/-), the said date shown on the pronote being 24.05.2014.

Learned counsel for the petitioner points to paragraph 1 of her written statement on the merits of the contention raised in the plaint (copy Annexure P-2), wherein it has been contended that the brother of the respondent-plaintiff often used to come to the house of the petitioner to ask about the well being of her husband, Daljit Singh, who it is stated that had left the house for some unknown place. It is also stated in the written statement, that it could be possible that on one of those visits, the plaintiff and Jagdev Singh (shown to be a '*Numberdar*' in the written statement), may have obtained the signatures/thumb impression of the defendant on some blank papers, "on the pretext of searching for her husband."

Learned counsel further submits that as per the petitioner, the documents were actually got signed/thumb marked from the petitioner after the year 2015.

Hence, he submits that the petitioner not having any other method of proving that the pronote has been got executed after 24.05.2014, with a fraud played upon her, the application should not have been dismissed vide the impugned order.

Learned counsel for the respondent-plaintiff, on the other hand, submits that the plaintiff having taken a specific stand in paragraph 1 of the plaint (copy Annexure P-1), to the effect that she had put her right thumb impression/signature at two points, with four revenue stamps worth Rs. 1/- each affixed on the said pronote, and another thumb impression/signature on the pronote form itself, (with her signatures being in Gurmukhi); and thereafter having put her right thumb impression on another revenue stamp (which though not stated in the plaint, is contended to be affixed on the receipt issued in respect of the money allegedly received), and the petitioner not having specifically taken a stand in the written statement in reply to paragraph 1 that the revenue stamps were not

existent on the date shown on the receipt and the pronote, i.e. 24.05.2014, a verification of those stamps cannot be sought by her.

He relies upon a judgment of a co-ordinate Bench of this Court in **Gurcharan Singh** vs. **Raj Krishan** 1993 (2) RRR 508, from which he points to the following paragraph:-

“I have seen the pronote and the receipt in question and find that the signatures of the person, who executed the pronote and the receipt, are appended on the stamp itself, the signatures having been denied by the petitioner, it would be left to the hand-writing expert to find out whether these were of the petitioner or not and for that purpose it would be wholly unnecessary to forward the case to Nasik. Admittedly, the stamps were appended on the pronote and the receipt at the time when the signatures were put on them and in that situation, it would be irrelevant to find out the date of the issue of the stamps. Mr. Mittal has also raised the contention that the trial Court has, in fact, gone into the merits of the controversy and recorded some findings which were not required on the facts of the case. The trial Court, has, however, stated in the order itself that the observations made, would not effect the merits of the case. I hope that these observations will be kept in view by the trial Court at the time of the final hearing of the case.”

He therefore submits that the petitioner not having examined even any finger print expert in respect of her thumb impression, or any hand-writing expert in respect of her signatures on the documents concerned, the application filed for seeking a verification of the revenue stamps is only one to delay proceedings in the trial.

Having considered the matter, as regards the judgment referred to hereinabove, what has been held therein is in the context of the fact that the signatures

of the person who had executed the pronote and the receipt had seemingly been denined to be of that person, and as such it would be left a hand-writing expert to find out whether such signatures were of the petitioner or not (in that case).

I do not see how that situation is similar to the one in question, where the petitioner is not entirely denying her signatures and thumb impressions, but is contending that they may have been obtained from her fraudulently, on papers allegedly to be used to try and trace out her husband.

Of course, it is equally possible that the application has been filed by her only to delay proceedings, but with the petitioner having alleged a fraud having been committed upon her in the manner stated hereinabove, in my opinion, the application should not have been dismissed by the trial Court, it also having been moved at a stage immediately after the respondent-plaintiffs' evidence had been concluded, vide an order passed on 29.01.2019, a copy of which has been produced in Court today by learned counsel.

Though vide the said order the hearing in the suit had been adjourned to 07.02.2019 for defendants' evidence, learned counsel submits that no evidence was actually led on that date, with the application that has been dismissed having been filed in fact on that very date.

That being so, this petition is allowed, with the impugned order set aside.

The trial Court would proceed to get the stamps verified from the Government Press at Nasik, as per procedure.

It is made absolutely clear that this Court is not making any comment whatsoever on the merits of the case of the parties and naturally not at all on the authenticity of the stamps, or the signatures or the thumb impression of the petitioner, all of which would be considered and adjudicated upon by the trial

Court as per the evidence led before it.

The Controller, Government Press Nasik, is requested to ensure that the report on the verification is sent to the trial Court within a period of two months from the date that the order of the trial Court is received back.

April 08, 2019
nitin

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes