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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

SANJIV KUMAR SHARMA
10/4/2019 14:23
I attest to the accuracy and
authenticity of this document

CR-2238-2019 (O/M)
Date of decision : 2.4.2019

Dalvinder Singh Petitioner (s)

Versus

Ram Pal Singh Respondent (s)

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Rajesh Goyal, Advocate, for,
Mr. P.S. Saini, Advocate,
for petitioner.

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KULDIP SINGH, J. (ORAL)

Impugned in present revision is order dated 1.3.2019 (Annexure-P-3), passed by learned Civil Judge (Junior Division), Kurukshetra, vide which an application filed under Section 151 of Civil Procedure Code, 1908, by plaintiff-petitioner to produce and prove documents in rebuttal evidence or lead additional evidence, was dismissed.

I have heard learned proxy counsel appearing for learned counsel for petitioner and have also carefully gone through case file.

Petitioner-plaintiff has filed a suit for specific performance. In this case, both the parties have led the evidence. Now, the case is at rebuttal stage. Now, at rebuttal stage, present application was filed saying that during the pendency of earlier suit, defendant-respondent agreed to compromise the matter and executed a receipt regarding confirmation of receiving balance sale price, but later on backtracked from the said undertaking. It is further stated that said receipt was lost by earlier counsel, who had filed earlier suit for declaration. In the written statement, defendant-respondent had termed the receipt as forged and fabricated. Petitioner-plaintiff wants to examine the signatures of defendant on the

original receipt with admitted documents and to examine handwriting and fingerprint expert and also the attesting witness of receipt Manjit Singh.

Before this Court, only prayer for additional evidence has been pressed.

After going through case file, I am of the view that there is no illegality or infirmity in the impugned order. The original receipt, which is sought to be produced, was never produced at any stage. Only photocopy of receipt was produced. Therefore, there can be no comparison with signatures of defendant on photocopy of receipt. The case is pending since year 2014. Petitioner-plaintiff was granted sufficient opportunity to lead evidence. If original receipt was found, plaintiff should have filed appropriate application to place it on file.

The learned proxy counsel appearing for learned counsel for petitioner claims that the original receipt was put to defendant, but he denied it. The learned proxy counsel appearing for learned counsel for petitioner also relies upon Single Bench authority of this Court in Jaipal Versus Hari Dass and others, 2017 (2) ICC 483 to press that since no prejudice is caused to opposite party, therefore, additional evidence can be allowed to be led.

I am of the view that petitioner-plaintiff has been sleeping over the matter for last five years. The original receipt was never placed on file by moving appropriate application. Infact, receipt was not pleaded in the plaint, but it was pleaded only in the replication and it was neither attached with plaint, nor it was stated that same has been lost. Now, at the fag end of case, petitioner-plaintiff cannot be allowed to lead additional evidence and produce and prove the receipt by examining handwriting and fingerprint

expert Sunil Verma and also attesting witness Manjit Singh. There is no ground to interfere in the impugned order. Thus, revision is dismissed.

(KULDIP SINGH)
JUDGE

2.4.2019
sjks

Whether speaking order : Yes / No

Whether reportable : Yes / No