

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-2650-2019 (O&M)
Date of decision : 1.5.2019

Sardare Petitioner
Versus
Asbir Singh and another Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. S.S. Mor, Advocate for the petitioner.

KULDIP SINGH, J.

Heard.

Petitioner is aggrieved by the order dated 7.3.2019 (Annexure P-6) passed by learned Additional Civil Judge, (Senior Division) Bahadurgarh whereby the application filed by the petitioner for leading additional evidence under Section 151 of the Code of Civil Procedure was dismissed.

It comes out that in the plaint, plaintiff had claimed that defendant-respondent No. 1 executed the mortgage deed and receipt dated 22.6.2015 in favour of plaintiff-petitioner. Defendant-respondent No. 1 denied the same in the written statement. Therefore, the mortgage deed was to be proved by leading affirmative evidence. In this case, both parties have led their evidence and the case is fixed for rebuttal and arguments which means that effectively the case is fixed for arguments. Now the plaintiff want to lead evidence of hand writing expert to prove the signatures of defendant-respondent No. 1 on the mortgage deed.

The provisions of Order XLI Rule 27 of the Code of Civil Procedure were deleted from the statute book. The application was moved under Section 151 of the Code of Civil Procedure. He has already led the evidence in affirmative and defendant-respondent No. 1 has also led the evidence. Therefore, there is no justification to allow evidence of expert. All the facts were within the knowledge of the petitioner and at the time of leading the affirmative evidence. The plaintiff availed many opportunities but failed to examine the hand writing expert. Now he cannot be allowed back door entry to lead the additional evidence so as to reopen the case.

In view of above, I do not find any illegality or infirmity in the impugned order dated 7.3.2019 (Annexure P-6) passed by learned Additional Civil Judge, (Senior Division) Bahadurgarh.

Dismissed.

(KULDIP SINGH)
JUDGE

1.5.2019
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Whether speaking / reasoned	Yes
Whether Reportable:	No