

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

**CR No. 5011 of 2016 (O&M)
Date of Decision: 21.01.2020**

Ashok Rani

.... Petitioner

Versus

M/s Mohan Lal and Brothers & others

... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vaibhav Sehgal, Advocate
 for the petitioner.

None for the respondents.

ANIL KSHETARPAL, J. (ORAL)

The plaintiff has filed present revision petition against order dated 18.05.2016 passed by the learned trial Court dismissing application filed under Section 73 of Indian Evidence Act, 1872 for directing defendants No. 2 and 3 to give their specimen handwritings/ signatures.

The plaintiff has filed a suit for recovery of Rs. 3,85,000/- along with future interest. Plaintiff claims that defendants No. 2 and 3 have executed aforesaid writing acknowledging the amount payable. When the plaintiff was leading its affirmative evidence, the application in question was filed. The same has been dismissed by the Court by recording as under:-

“ I have heard the contentions raised by counsel for the parties on the point of application. Perusal of the relevant portion of cross-examination of PW1 shows that the applicant in her cross-examination has herself admitted that the handwriting Ex P1 was executed and handed over to her by the respondent No. 4. When the respondent No. 4 has executed the disputed writing than there is no need to issue directions to the respondent No. 2 and 3 to give their

specimen signatures. Further, perusal of the file reveals that the issues in the present case were framed on 13.02.2013 and since then the case is pending for plaintiff evidence. The applicant/plaintiff has moved the present application on 06.01.2016 after about 4 years of framing of issues. The conduct of the applicant while concluding his evidence and moving the present application after about four years does not warrant any lenient view in her favour. I find no merits in the present application. Now to come up for plaintiff evidence for 08.07.16, subject to last opportunity.”

Learned counsel for the petitioner contends that due to slip of tongue, no doubt, when the plaintiff appeared in defense has stated in cross examination that the aforesaid writing is in the hands of defendant No. 4, however, immediately she recovered and stated that it is in fact, in the handwriting of defendant No. 3. He submitted that the learned trial Court has erred in reading one line of the statement of the plaintiff in isolation to the entire statement. He submitted that consistent stand of the plaintiff in the pleadings as well as in her deposition is to the effect that the aforesaid writing is in the hands of defendant No. 3-Rajesh Kumar son of Mohan Lal.

On 18.10.2016 Mr. Narinder Kumar Vadehra had appeared, however, thereafter, stopped appearing.

This Court has considered the submission and find merit therein. It is well settled that deposition of a witness has to be read in entirety. One separate line in the cross examination can not be read in isolation. The entire statement has to be read in the context it has been

petitioner, once the consistent stand of the plaintiff is that the aforesaid writing is in the hands of defendant No. 3-Rajesh Kumar, the Court has erred in dismissing the application.

Keeping in view the aforesaid facts, present revision petition is allowed. Defendant No. 3 is directed to give his specimen handwriting/signatures to the Court to enable the plaintiff to get it compared from the document/handwriting expert. Since, during the pendency of the revision petition, evidence of the petitioner has been closed, therefore, plaintiff shall be granted one more effective opportunity to lead her evidence.

Petition allowed.

(ANIL KSHETARPAL)
JUDGE

21.01.2020
Maninder

Whether speaking/reasoned : Yes
Whether reportable : Yes