

In the High Court of Punjab and Haryana at Chandigarh

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CR-598-2020 (O & M)

Date of Decision: January 28, 2020

HARMAIL SINGH

.....PETITIONER

VERSUS

JASWANT SINGH AND ANR

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. Harsh Neyol, Advocate
for the petitioner.

ANUPINDER SINGH GREWAL, J (ORAL)

The petitioner has challenged the order dated 09.12.2019 whereby his application to examine the handwriting expert in rebuttal evidence has been declined.

Learned counsel for the petitioner contends that the trial Court did not take into account Ex.P-6, Ex.P-7 and Ex.P-8 wherein the receipt (Ex.P-1) dated 13.12.2007 had been admitted. The respondents had later led evidence and had examined handwriting expert to indicate that the document was forged and fabricated and, therefore, the petitioner ought to have been given opportunity to examine the handwriting expert in his rebuttal evidence.

Heard.

The petitioner has sought to examine the handwriting expert in his rebuttal evidence to prove that Ex.P-1 dated 13.12.2007 is a genuine document.

The petitioner had filed a suit for declaration that he is owner in possession of the suit land as per jamabandi for the year 2011-2012 and in the alternative, he filed a suit for recovery of ₹1 lac on the basis of receipt dated 13.12.2007. The defendants/respondents and their grandfather had earlier preferred a suit for permanent injunction against the petitioner which had been dismissed. The appeal preferred by the petitioner/plaintiff was also dismissed. Thereafter the petitioner had preferred an RSA and the matter had been disposed of in terms of the compromise dated 13.12.2007 wherein a sum of ₹1 lac was allegedly paid to respondent No.1. However, later on the order was recalled on the basis of application preferred by respondent No.2, who is the brother of respondent No.1. Thereafter the appeal preferred by the petitioner had been dismissed. In the written statement in the instant suit, the defendants had specifically denied the execution of Ex.P-1 and had pleaded that it is false and forged document. The petitioner did not lead any affirmative evidence in support of his plea that Ex.P-1 was a genuine document. After closure of his evidence, the defendants had also led evidence and it is at the stage of rebuttal that the petitioner is seeking to examine the handwriting expert to show that the document Ex.P-1 is genuine and had been duly executed. The trial Court while declining the application has relied upon the judgment of this Court in the case of **Rashpinder Singh versus Seema, 2018 (4) PLR 732** wherein it was held that as the plaintiff did not adduce affirmative evidence to prove the execution of the document in question, he could not have been allowed to lead such evidence in rebuttal.

In view of the above, I do not find any illegality in the impugned order.

The petition stands dismissed.

Needless to mention that anything observed hereinbefore shall have no bearing on the merits of the controversy and it is only meant to decide the petition for examination of handwriting expert witness in rebuttal.

(ANUPINDER SINGH GREWAL)
JUDGE

January 28, 2020
A.Kaundal

Whether speaking/ reasoned : Yes/No
Whether Reportable : Yes/No