

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

206

CR No.2017 of 2020
Date of Decision:02.11.2020

Adarshbir Singh

..... Petitioner

Versus

Ramesh Kumar

..... Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Mandhir Singh Virk, Advocate,
for the petitioner.

Mr. Jagraj Singh Khiva, Advocate,
for the respondent.

AMOL RATTAN SINGH, J. (ORAL)

All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the COVID-19 pandemic.

By this petition, the petitioner seeks setting aside of the impugned order dated 16.12.2019 (copy Annexure P-5) passed by the learned Additional Civil Judge (Senior Division), Sardulgarh, wherein an application seeking permission to examine the date of printing/issuing of the pronote and receipt and the tickets affixed on it from the Government Printing Press, Nasik, was dismissed.

On 10.07.2020, the following order had been passed:-

“All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the COVID-19 pandemic.

Learned counsel for the petitioner submits that it has been erroneously stated in the impugned order of the trial court that the

trial is at its fag end because not even a single witness for the petitioner, i.e. the defendant, has been examined so far.

Upon query as to why then it took the petitioner almost 07 months to challenge the impugned order, which was passed on 16.12.2019, he submits that the order, though was applied for 19.12.2019, a certified copy thereof was given to the petitioner only on 13.03.2020, with it having been prepared also only on 07.03.2020.

Without making any comment on that contention raised, let notice of moton be issued to the respondent, returnable on 29.07.2020.

The respondent be served by way of dasti process also.

In the meanwhile, the trial court would not conclude proceedings before it, till the next date of hearing only and specifically.

If the respondent is not shown to be served of the notice issued by the next date of hearing, the interim order would be liable to be vacated.

For that purpose, to be shown in the urgent motion list.”

Today, firstly, upon query to learned counsel for the respondent (plaintiff in the suit), as to whether any witness for the defendant has been examined by the trial court, he fairly admits that no witness for the defendant was examined.

His next contention is that since the petitioner (defendant in the suit) has taken no plea in his written statement before the trial court that the stamps need to be examined and his only plea is that a fraud has been played upon him, the stamps cannot be allowed to be examined.

No other argument has been raised, even after specific query to learned counsel for the respondent-plaintiff.

Having considered the matter, firstly, as regards the trial court

observing in the impugned order that the trial is at its fag end, that obviously cannot be taken to be correct in view of the fact that no witness for the defendant is admitted even by counsel for the plaintiff, to have been examined.

As regards the contention of learned counsel for the respondent that since “only a fraud” is alleged to have been committed as per the written statement filed in the suit, and therefore the pronote and the stamps on it need not be examined, I find absolutely no basis for that argument because once a fraud is alleged to have been committed and the petitioners' (defendants') contention is that even the pronote and the stamps thereon are actually dated after the date shown on the pronote, i.e. 18.01.2015, I would not deny allowing of the application filed by the petitioner, i.e. the defendant before the trial court (copy Annexure P-3, dated November 20, 2018), to establish as to whether the pronote is actually undated or not.

Consequently, this petition is allowed, with the impugned order set aside and the aforesaid application filed by the petitioner before the trial court also allowed.

The trial court would, naturally, proceed with the trial in the suit after the report from the Government Press, Nasik, has been received.

November 02, 2020
dinesh

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
Yes