

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

C.R No. 3187 OF 2021 (O&M)

DATE OF DECISION : 09.12.2021

Kuldeep Singh

...Petitioner

versus

M/s TarsemNathRanjinder Kumar

And another

...Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Mohan Singh Chauhan, Advocate,
for the petitioner.

ARUN MONGA, J. (ORAL)

CM-13763-CII OF 2021

For the reasons stated in the application, same is allowed and documents contained at Annexures P-1 to P-11 are taken on record, subject to all just exceptions.

MAIN CASE

Petitioner assails an order dated 17.11.2021 (Annexure P-10) passed by learned Additional Civil Judge (Senior Division), Guhla, vide which the evidence of petitioner/defendant has been closed by order of the court. Further prayer has been made to allow the petitioner to examine Dr. JassyAnand, Handwriting and Forensic Expert as a defense witness.

2. Learned counsel for the petitioner submits that plaintiffs/respondents closed their evidence on 17.08.2021. First opportunity for adducing defense evidence was kept on 02.09.2021. On

the said hearing no evidence of the defendant/petitioner was led and the case was adjourned to 22.09.2021. Meanwhile, petitioner moved an application on 20.09.2021 for producing the account books of the plaintiffs. Same was allowed and matter was fixed for 22.09.2021 i.e. the date already fixed. On 22.09.2021, the case was adjourned to 06.10.2021 and then to 27.10.2021 and 08.11.2021 as the petitioner was stated to be unwell during the period. On 08.11.2021, petitioner appeared as witness and requested the Court to give him one opportunity to examine the handwriting expert Dr. Jassy Anand as his witness. Request was allowed subject to payment of costs of Rs.500/-. On 17.11.2021, the handwriting expert was present in the Court and she requested to inspect the file. Appropriate application for inspection of file was filed which was allowed on the same day. After inspection of file, the handwriting expert sought some time to prepare a report, which was however declined by the trial Court. Vide impugned order evidence of defendant/petitioner was thus closed by order.

3. Learned counsel for the petitioner/defendant submits that handwriting expert Dr. Jassy Anand was very much present in the Court on 17.11.2021. She has since inspected the file and is the only witness which the petitioner wants to examine. He further submits that petitioner will suffer irreparable loss if the petitioner is not allowed to examine the handwriting expert.

4. Elaborating further, learned counsel argues that impugned order has resulted in grave miscarriage of justice. For effective and proper adjudication of the case on its merits, the petitioner be permitted to examine the sole remaining witness.

5. I have heard learned counsel for the petitioner and perused the case file.

6. Learned counsel further submits that Rules of procedure are handmaids of justice and cannot be allowed to thwart real and substantial justice between the parties. According to learned counsel, no prejudice would be caused to the plaintiffs if the defendant is permitted one opportunity to examine the hand writing expert.

7. Given the nature of order being passed, there is no necessity to issue notice to the respondents as no prejudice would be caused to them. Notice to the respondents is dispensed with.

8. I deem it appropriate to grant one more opportunity to the petitioner to examine the handwriting and forensic expert Dr. Jassy Anand, subject to payment of costs of Rs.10,000.

9. In the premise, the instant revision petition is allowed. Impugned order dated 17.11.2021 (Annexure P-10) is set and subject to payment of Rs.10,000/- as costs. Petitioner shall be allowed one final opportunity to produce the sole witness, Dr. Jassy Anand. It is, however, made clear that in case the petitioner fails to produce the said witness on the date given by the trial Court, no further time shall be granted and the Court below shall proceed in accordance with law.

DECEMBER 09, 2021
Shalini

(ARUN MONGA)
JUDGE

Whether speaking/reasoned :
Whether reportable :

Yes/No
Yes/No