

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CR No.3059 of 2016

Reserved on : 17.11.2022

Date of Decision : 30.11.2022

Ram Kishan

....Petitioner

VERSUS

Raj Kumar

....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Vivek Singla, Advocate for the petitioner.

Mr. Ram Pal Verma, Advocate for the respondent.

ALKA SARIN, J.

The present revision petition has been filed under Article 227 of the Constitution of India challenging the orders dated 23.11.2015 (Annexure P-3) and 30.03.2016 (Annexure P-4) passed by the Trial Court.

The brief facts relevant to the present *lis* are that the plaintiff-respondent filed a suit for specific performance with a consequential relief of perpetual prohibitory injunction. The suit was resisted by filing a written statement. On the basis of pleadings of the parties, issues were framed. The plaintiff-respondent filed an application for granting permission to call the handwriting and fingerprint expert to compare the thumb impressions of Ram Kishan (defendant-petitioner) with his admitted thumb impressions. The same was allowed vide order dated 10.08.2015. On 25.08.2015 the defendant-petitioner was to appear in Court for giving his thumb impressions for the purpose of comparison by the handwriting and fingerprint expert, however, he did not turn up. Faced with the situation, Sh. V.B. Kashyap, handwriting and fingerprint expert, on the asking of the plaintiff-respondent, moved an application for obtaining photographs of the

disputed signatures of the defendant-petitioner and the photographs of the admitted signatures on the agreement (Ex.P1) and receipt (Ex.P2) and admitted signatures on the written statement, reply to the stay application, *vakalatnama* and summons. The said application was allowed. Thereafter, the photographs were obtained and a report was submitted by the handwriting and fingerprint expert who had presented himself for cross-examination on 15.09.2015. An application was moved by the defendant-petitioner for inspection of the file and for granting permission to take photographs of the disputed and admitted signatures for the purposes of preparing a report. The said application was dismissed vide the impugned order dated 23.11.2015 on the ground that defendant-petitioner had moved an application for giving specimen signatures for the purposes of comparison of his disputed signatures. The Trial Court held that it is quite possible that the defendant-petitioner would try to make valuable changes in his signatures so that the same remain un-compared with the disputed signatures. A review application was filed by the defendant-petitioner which was also dismissed vide the impugned order dated 30.03.2016. Hence, the present revision petition.

A perusal of the application reveals that the only permission sought was to take photographs of the disputed and admitted signatures on the agreement to sell, receipt and other documents for the purposes of preparing a report. However, the Trial Court has proceeded as if the defendant-petitioner wanted to give his specimen signatures for the purposes of comparison of his disputed signatures.

In view of the above, I deem it appropriate to set aside the impugned orders dated 23.11.2015 (Annexure P-3) and 30.03.2016

(Annexure P-4) and direct the Trial Court to decide the application (Annexure P-1) afresh keeping in view the prayer made therein.

The present revision petition stands disposed off in the above terms. Pending applications, if any, also stand disposed off.

30.11.2022
jk

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO