

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 6881 of 2018

Date of Decision: 05.07.2022

Shiv Raj Singh (Since Deceased) through his legal representative

... Petitioner(s)

Versus

Ajay Singh Chaudhary and Another

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Rajesh Sethi, Mr. S.K.Biriwal and
Mr. Tushar Garg, Advocates
for the petitioner(s).

Mrs. Sharmila Sharma, Advocate
for the respondent No.1 and 2.

Anil Kshetarpal, J.

1. The plaintiff has filed this revision petition assailing the correctness of the order dated 04.09.2018 passed by the learned Civil Judge (Junior Division), Sonapat, while directing the plaintiff to produce the sale deed bearing No. 1840 dated 12.06.2009 executed by the Municipal Corporation in his favour and permitting the defendants to examine the Handwriting and Fingerprint Expert. The litigation is between the family members.

2. Late Sh.Shiv Raj Singh filed a suit against his son and daughter-in-law with a prayer to grant decree of declaration along with the consequential relief of permanent injunction claiming that the agreement to sell dated 21.07.2011 is forged and fabricated document and it has not been

signed by him. The defendants while filing the written statement filed a

counter claim seeking relief of specific performance of the agreement to sell. The plaintiff led his evidence. He also examined Smt.Poonam Saini, Handwriting and Fingerprint Expert as PW.4. When the case was fixed for the defendants' evidence and evidence in support of the counter claim, they filed an application for directing the plaintiff to produce the sale deed bearing No. 1840 dated 12.06.2009 executed by the Municipal Corporation in his favour which bears his signatures. The Court allowed the application.

3. Heard the learned counsel representing the parties, at length and with their able assistance, perused the paper-book.

4. The learned counsel for the petitioner contends that the defendants have already been granted eight effective opportunities including three last opportunities subject to payment of costs, but the defendants, rather than paying the costs, have filed an application. They intend to delay the trial and the true/genuine signatures of the plaintiff are available on the plaint, affidavit, vakalatnama of this suit as also in the previous suit which was filed by Sh.Ajay Chaudhary. He submits that the trial Court has permitted the defendants to examine the Handwriting and Fingerprint Expert, although there is no prayer in this regard.

5. After having heard the learned counsel representing the parties, this Court is of the considered view that there is no substance in the present revision petition. It is not in dispute that the case is still fixed for the defendants' evidence and the Court has not closed the defendants' opportunity to lead evidence. The sale deed dated 12.06.2009 which bears the signatures of late Sh. Shiv Raj Singh is in the control of the plaintiff. No doubt, the signatures of the plaintiff on the plaint, affidavit and vakalatnama

deed are considered to be more authentic. We cannot overlook the fact that the plaintiff, while filing the suit, claims that the agreement to sell dated 21.07.2011 is forged. In such circumstances, the signatures which were appended by the plaintiff on the plaint, affidavit, vakalatnama etc. cannot be treated as true signatures. One cannot overlook the fact that the defendants are not only defending the suit, but also have filed their counter claim. Hence, it is to be tried as an independent suit. No doubt, the defendants have already availed eight opportunities including three last opportunities, however, the Court, in exercise of its discretion, has permitted the defendants to lead their evidence.

6. The last argument of the learned counsel representing the petitioner is with respect to permission of the Court allowing the defendants to examine the Handwriting and Fingerprint Expert. Once the case is fixed for the defendants' evidence, they can produce the evidence which is relevant.

7. The rules of procedure are meant to advance justice. The trial Court has exercised its discretion. Hence, no ground is made out to interfere. Consequently, the present revision petition is dismissed.

8. At this stage, the learned counsel representing the petitioner submits that the trial of the case is pending for quite some time and the defendants may be directed to conclude their evidence. The learned counsel representing the petitioner further apprehends that the original sale deed may be damaged by the defendants. On the other hand, the learned counsel representing the respondents submits that firstly, the plaintiff is required to produce the registered sale deed.

Judge of the Court is directed to ensure the safety of the document before permitting the Handwriting and Fingerprint Expert to take photographs. The trial Court is also directed to put the document in a sealed cover after the Handwriting and Fingerprint Expert has taken its photographs. Let the defendants conclude their evidence within a period of three months from the date on which the sale deed is produced before the trial Court.

(Anil Kshetarpal)
Judge

July 05, 2022
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No