

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-8311 of 2018(O&M)
Date of decision: 22.08.2022

Manju and another

..Petitioners

Versus

Kartar Singh

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Amit Kumar Goyal, Advocate
for the petitioners.

ANIL KSHETARPAL, J(Oral)

The petitioner's application for getting compared the thumb impression of Sh. Prem on the disputed mortgage deed dated 24.12.2004 with the admitted thumb impression on the sale deed dated 06.08.2008 has been dismissed.

The petitioner is Sh. Prem's wife, who is a proclaimed offender. She has filed a suit seeking decree of declaration that the mortgage deed dated 24.12.2004 allegedly executed by Sh. Prem is a result of fraud, misrepresentation and without consideration. The Court after appreciating the facts has dismissed the application on the ground that the onus to prove the facts alleged in the plaint lies on the plaintiff.

The learned counsel representing the petitioners contends that whereabouts of Sh. Prem are not known. He further contends that the case is at the stage of plaintiff's evidence and the court should have summoned the original record of the aforesaid sale deed and the mortgage deed from the office of sub-Registrar as prayed for in the application. While filing the application, the prayer made by the petitioners reads as under:-

“It is, therefore, prayed that the applicants may kindly be

permitted to take photographs of disputed thumb impressions (which have been wrongly shown of said Prem) exists upon alleged mortgage deed no.9299 dated 24.12.2004 as well as the applicants may kindly be permitted to take/capture the photographs of admitted thumb impressions of husband of plaintiff No.1 namely Prem son of Ram Dhan exists upon sale deed no.2519 dated 06.08.2012 through handwriting and fingerprint expert, in order to compare the admitted thumb impressions with the dispute thumb impressions, after summoning the original record of above said sale deed and mortgage deed from the office of sub-Registrar, Sonipat, in the interest of justice.”

The plaintiff while leading the evidence can request the Court to summon the record from the office of the Registrar. However, before summoning the record, the petitioner prayed for permission to take photographs of the disputed thumb impressions.

Keeping in view the aforesaid facts, the revision petition is disposed of with liberty to the petitioners to file an application for summoning the original record from the office of Registrar with respect to the sale deed and the mortgage deed and thereafter proceed with the matter.

All the pending miscellaneous applications, if any, are also disposed of.

August 22, 2022

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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No