

Ranvir Singh

...Petitioner

Vs.

Smt. Mewa and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

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

Mr. Sumit Gupta, Advocate for respondents No.2 and 3.

Mr. Yashdeep Nain, Advocate for respondent No.4.

MANOJ BAJAJ, J.

Petitioner, through this revision petition under Article 227 Constitution of India, has invoked superintendence powers of this Court for setting aside the impugned order dated 12.07.2019 (Annexure P-12) passed by learned Civil Judge (Jr. Division), Bahadurgarh, District Jhajjar, whereby his application under Section 151 CPC for cancellation of tampered evidence has been dismissed.

Learned counsel has argued that the petitioner has filed a suit for specific performance of agreement to sell dated 12.08.2006 and while adducing evidence, PW-3 Dilbag Singh was examined, whose cross-examination was concluded on 06.01.2017. He submits that in the last two pages, i.e. on the 4th and 5th page of the cross-examination, few lines were inserted, which were not infact stated by the said witness at the time of recording the evidence. According to the learned counsel, on 4th page, it was added that “on

12.08.2006, Ranvir did not pay any earnest money to Mewa' and similarly, the next 5th page contains addition i.e. "it is correct that Ranvir had obtained thumb impressions of Mewa and Santosh on plain papers". Learned counsel has argued that these lines were added in the absence of witness Dilbag Singh after conclusion of his statement and his signatures on the deposition sheet.

He submits that subsequently on 22.12.2017, the petitioner/plaintiff moved an application for striking out the above added material in the deposition of witness-Dilbag Singh PW-3, but the trial Court has erroneously dismissed the said application on the ground that the statement of the witness was recorded by Criminal Ahlmad in the supervision of the Presiding Officer, therefore, question of any addition/alteration in the evidence does not arise.

According to him, the Civil Judge (Junior Division), Bahadurgarh further held that no certified copy of the deposition of PW-3 Dilbag Singh dated 6.1.2017 has been produced to show that these alleged alterations were made subsequently. He prays that the impugned order be set aside and this part in the deposition of PW-3 Dilbag Singh be struck off.

After hearing the learned counsel and considering the material on record, this Court finds that the deposition of PW-3 Dilbag Singh, including cross-examination, contains his signatures with a remark 'RO&AC' and this shows that the contents of his deposition were read over to the witness, who, after concurring with its correctness, signed it. A perusal of the affidavit of this witness Dilbag Singh, Annexure P-8, filed along with the application dated 22.12.2017, shows that it is not mentioned by this witness that when he signed the deposition on 06.01.2017, these lines were neither contained in the deposition nor were read over to him. Even, the counsel representing the

plaintiff has not filed any affidavit in support of the application, therefore, in the absence of any convincing material, the argument raised by the plaintiff regarding subsequent addition in deposition of PW-3 is unacceptable.

A perusal of the impugned order reveals that the Court has carefully examined the averments in the application and material on record, while dismissing the plaintiff's prayer for striking off the alleged disputed portion from the statement of the witness PW-3.

Even otherwise, pursuant to order dated 25.07.2019 passed by this Court, a report with respect to the inquiry conducted by the concerned Presiding Officer, has been received, wherein the concerned official, who recorded the statement has submitted that the evidence was recorded continuously in the presence of the Presiding Officer.

In view of the above discussion, this Court does not find any any illegality or impropriety in the impugned order passed by the Executing Court, therefore, no interference is warranted.

Dismissed.

(MANOJ BAJAJ)
JUDGE

14.11.2022

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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No