

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

C.R. No. 6116 of 2022 (O&M)

Date of decision : 22.12.2022

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Mona Rani

.....Petitioner

vs.

Harish Bhatia

.....Respondent

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Manoj Pundir, Advocate
for the petitioner.

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H. S. Madaan, J.

1. Briefly stated, facts of the case are that, plaintiff - Harish Bhatia, had filed a suit for specific performance of agreement to sell dated 21.2.2012 in respect of house situated at Mauja Kansapur, Masuma Aggarsain Puri, Kansapur, Yamuna Nagar, Tehsil Jagadhri, District Yamuna Nagar, against defendant Mona Rani.

2. On getting notice, the defendant appeared and filed written statement contesting the suit. Issues on merits were framed and case posted for evidence of the plaintiff. During the course of proceedings, the defendant filed an application under Order 26 Rule 10A CPC, for sending original writing dated 25.2.2012 to FSL Madhuban, for comparing signatures of plaintiff on that writing, with

his admitted signatures contending that plaintiff in such writing had admitted providing money on interest to defendant and getting agreement dated 21.2.2012 executed as security without any consideration and further during his evidence, the plaintiff was recalled and confronted with writing dated 25.2.2012, on which he initially admitted his signatures on back of the writing but later on intentionally denied the signatures. The application was contested on behalf of the plaintiff. The trial Court, vide impugned order dated 16.11.2022 dismissed the same, leaving the defendant aggrieved and she has filed the present revision petition, praying that the order under revision be set aside and application filed by her for sending the document of FSL, Madhuban, be accepted.

3. I have heard learned counsel for the petitioner, besides going through the record.

4. A perusal of Order 26 Rule 10A CPC goes to show that it deals with appointment of Commission for scientific investigation providing that where any question arising in a suit involves any scientific investigation which cannot, in the opinion of the Court, be conveniently conducted before the Court, then the Court may, if it thinks it necessary or expedient in the interests of justice so to do, issue a commission to such person as it thinks fit, directing him to inquire into such question and report thereon to the Court. In that way, the power entirely rests with the Court.

5. A perusal of the interim order goes to show that in para No. 4 of thereof, it is observed that if the defendant intends to prove

the contents of writing dated 25.2.2012, he can do so by examining an expert engaged by him or by adducing other evidence and that the State agencies cannot be utilized for settling the civil disputes. In that way, the trial Court did not find carrying out of any scientific investigation in the matter, to be necessary or expedient, thereby refusing to exercise power under Order 26 Rule 10A CPC. The impugned order declining the application, can certainly be not termed to be perverse or arbitrary.

6. Learned counsel for the revision petitioner has referred to judgment of the Apex Court in *Rama Avatar Soni vs. Mahanta Laxmidhar Das and others* 2018 (4) RCR (Civil) 894 and judgment passed by this Court, in case *Sandeep Anand vs. Vivek Ranjan and another in CR 3494-2021 (O&M) decided on 12.09.2022*, in support of his contention that the application deserved to be allowed. However, I find that the abovesaid judgments are not applicable due to different facts and circumstances, as well as, the context in which such observations had been made.

7. No reason is found to there to interfere in the impugned order, which does not come out to be suffering from any illegality or infirmity.

8. The revision petition is dismissed accordingly.

22.12.2022
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(H.S. Madaan)
Judge

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