

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**264****CR-171-2020 (O&M)****Date of decision: 15.03.2023****Harwinder Kumar & Others****...Petitioner(s)****Vs.****Amrit Rani @ Kavita Rani****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA****Present:- Mr. Avnish Mittal, Advocate for the petitioners.***********NIDHI GUPTA, J.**

By way of impugned order dated 30.11.2019 (Annexure P5), the petitioner/plaintiff No.1's application dated 16.09.2019 (Annexure P3) has only been partly allowed. In the present Revision Petition, it is a prayer of the petitioners that impugned order dated 30.11.2019 (Annexure P5) be modified and application Annexure P3 so filed by plaintiff/petitioner No.1 be allowed in toto in the interest of justice.

2. Brief facts are that plaintiffs have filed a Suit for possession of suit property along with recovery of Rs.2,52,000/- as mesne profit. It is the pleaded case of the petitioners that one Bodli Bai was owner of shop. Subsequently vide partition deed dated 15.02.2012, suit property was stated to have been partitioned as per which respondent/defendant Amrit Rani @ Kavita Rani was given 4/100th share i.e. 320 square yards of the suit land. During pendency of the Suit, petitioner No.1 moved application dated 16.09.2019 for directing

respondent/defendant to give her specimen signatures as Amrit Rani as also her thumb impression for comparison with disputed signatures and thumb impression of respondent on partition deed dated 15.02.2012. Said application was contested by respondent by way of reply dated 07.11.2019 (Annexure P4). However, learned trial Court vide order dated 30.11.2019 (Annexure P5) only partly allowed application of petitioner No.1 to the extent directing respondent therein to give her thumb impression for comparison with thumb impression on partition deed. However, while passing impugned order, no observation was made by learned trial Court with regard to allowing or denying of relief with regard to specimen signatures as claimed by petitioner No.1.

3. It is inter alia submitted by learned counsel for the petitioners:

a) that signature of respondent is most important piece of evidence for petitioner No.1 to prove his case as also partition deed dated 15.02.2012 on which respondent has specifically denied her signatures;

b) that though the learned trial Court has not specifically given any finding on specimen signatures of respondent, however, the argument of learned counsel for the parties has been duly noted by it in the impugned order;

c) that as per settled principles of law, it has been held time and again that in order to ascertain the truth, the Court has ample

powers to direct any person to give his specimen signatures so that the same may be compared with the admitted signatures on record.

4. No other argument is raised on behalf of the petitioners.

5. I have heard learned counsel for the petitioners.

6. Notice was issued in the matter on 13.01.2020. Though service was recorded to be complete in the case, however, there was no representation on behalf of respondent. Accordingly, respondent is being proceeded against ex parte and matter is being decided in her absence.

7. Perusal of impugned order shows that after recording submissions of parties, learned trial Court has proceeded to partly allow application of petitioner No.1 in following manner:-

“6. In the present case, the plaintiffs are seeking to prove the signatures and thumb impression on the partition deed dated 15.02.2012 to be of the defendant. The authority (supra) is of no help to the defendants. In view of the aforesaid discussion, present application stands allowed. The defendant is directed to give her thumb impressions of both the hands for comparing them with the thumb impression on the partition deed dated 15.02.2012.”

8. It is clear that though application of petitioner No.1 was for comparing thumb impression as well as signatures of respondent with admitted signatures and thumb impression, however, learned trial Court has only partly allowed the said application. Perusal of application of petitioner No.1 (Annexure P3) clearly shows that it was for directing the respondent to give her specimen signatures as Amrit Rani and her thumb impression for comparison with disputed signature and thumb

impression on partition deed dated 15.02.2012 vasika No.9267 which is on judicial file as Ex.PW2/A.

9. No reason has been assigned by learned trial Court as to why said application has only been partly allowed. In my view, as the partition deed in question is stated to bear signatures as well as thumb impression of respondent, it would serve interest of justice to allow application of petitioner No.1 in toto. Impugned order dated 30.11.2019 is accordingly modified to the extent that petitioner No.1 is permitted to compare disputed signature of respondent with specimen signature of respondent. Accordingly, respondent is directed to give her specimen signature as Amrit Rani and her thumb impression for comparison with her disputed signatures and thumb impression on partition deed dated 15.02.2012.

10. In my view, in the facts and circumstances of the case as canvassed and noticed hereinabove, present Revision Petition as also application of petitioner No.1 (Annexure P3) deserves to be **allowed**.

11. Pending application(s) if any also stand(s) disposed of.

15.03.2023

Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No