

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

116

CR-6606-2023 (O&M)

Date of decision : 15.11.2023

Manoj Kumar Patti

..... Petitioner

Versus

Ajay Malhotra since deceased through LRs

..... Respondent

CORAM : HON'BLE MS. JUSTICE AMARJOT BHATTI

Present: Mr. Gurcharan Dass, Advocate for the petitioner.

AMARJOT BHATTI J. (ORAL)

CM-20425-CII-2023

This is an application filed under Section 151 CPC for placing on record documents Annexures P-3 to P-7 and exemption from filing certified copies of the same.

For the reasons enumerated in the application, accompanied documents Annexure P-3 to P-7 are taken on record and exemption from filing certified copies is also allowed, subject to all just exceptions.

CM is accordingly, allowed.

CR-6606-2023

The petitioner – Manoj Kumar Patti has filed civil revision under Article 227 of the Constitution of India for setting aside order dated 16.05.2023 whereby the evidence of the petitioner was closed by order except cross-examination of witnesses already examined (Annexure P-1) and the order dated 18.10.2023 whereby the application filed by the petitioner for allowing him to examine handwriting expert has been dismissed (Annexure P-2), both orders

passed by learned Civil Judge (Junior Division), Ludhiana in Civil Suit No. 5335 dated 19.12.2017, titled “Manoj Kumar Patti Vs. Ajay Malhotra”.

2. Learned counsel for the petitioner pointed out that Manoj Kumar Patti filed aforesaid civil suit for recovery of Rs. 7,92,000/- as detailed in the plaint on the basis of pro-note and receipt. The copy of plaint is Annexure P-3 and copy of written statement is Annexure P-4. The issues were framed and the plaintiff had led evidence. Ultimately, the plaintiff closed the evidence by tendering documents in affirmative and the case was adjourned for defendant evidence as per zimni order dated 07.07.2023, reproduced in the copy of petition. Thereafter, the present petitioner filed application to examine handwriting expert for comparison of signatures of Ajay Malhotra with his signatures available in the Court file. The copy of application is Annexure P-7. No reply was filed. However, the learned trial Court by passing impugned order dated 18.10.2023, Annexure P-2 dismissed the said application. It is pointed out that the respondent/defendant in the written statement took the stand that the pro-note is a forged and fabricated document. Therefore, this plea taken by the respondent is required to be rebutted by examining handwriting expert. The aforesaid application is necessary for proper adjudication of the case. Therefore, the impugned order passed by the learned Civil Judge (Junior Division), Ludhiana dated 16.05.2023, Annexure P-1 and order dated 18.10.2023, Annexure P-2 may kindly be set aside and he may be permitted to examine handwriting expert for the purpose of comparison of signatures of Ajay Malhotra on pro-note and receipt with his admitted signatures, already available on the record. Learned counsel for the petitioner has also relied upon the authority cited in **2017(3) CivCC 269, Telangana and Andhra Pradesh High Court**, in case titled “**Pabolu Prameela Rani, W/o Anjaneyulu, 30 years, R/o D.No. 1221-**

5/1, Seetanagaram, Gajuwaka, Visakhapatnam and another Versus Bogi

Prasanthi, W/o Srinivasa, 33 years, R/o D.No. 97-11, High School Road, Gajuwaka, Visakhapatnam and another.

3. I have considered the arguments advanced before me. The case of present petitioner is based on documents which are already available on record. No purpose would be served by issuing notice to the respondent. I have gone through the record. The copy of plaint titled “Manoj Kumar Patti versus Ajay Malhotra” seeking recovery of Rs. 7,92,000/- along with interest on the basis of pro-note and receipt is Annexure P-3 and the copy of written statement filed by Ajay Malhotra is Annexure P-4. The present application has been filed by the petitioners when the case was fixed for rebuttal evidence, if any and final arguments. It is rightly pointed out by the trial Court that the stand taken by the respondent/defendant was well within the knowledge of present petitioner rightly from the very beginning. Therefore, in case the petitioner wanted to examine any handwriting expert then that evidence should have been led in affirmative. Apart from this, no expert witness has been examined by the respondent/defendant. Therefore, it cannot be said that examination of handwriting expert is necessary to rebut the evidence led by the respondent/defendant. Considering the aforesaid facts, the application filed at the fag end of the trial is not justified. Therefore, I do not find any reason to interfere in the order dated 16.05.2023, Annexure P-1 as well as order dated 18.10.2023, Annexure P-2 passed by the Court of learned Civil Judge (Junior Division), Ludhiana and the same are accordingly, upheld. Resultantly, the civil revision filed by the petitioner is accordingly, dismissed.

Pending application(s), if any, shall also stands disposed off.

15.11.2023

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(AMARJOT BHATTI)
JUDGE