

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No.114

Case No. : CR-6819-2023 (O&M)

Date of Decision : December 04, 2023

Parmod Rani Petitioner
vs.
Karan Singh and others Respondents

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

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Present : Mr. Ashok Kumar Khunger, Advocate
for the applicant-petitioner.

Mr. K. B. Raheja, Advocate
for the respondents-caveators.

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GURBIR SINGH, J. :

- CM-21973-C-II-2023** : This is application under Section 151 CPC for placing on record copy of application dated 28.08.2023 filed by the respondents/plaintiffs for summoning the witness Satnam Chand and other witnesses. For the reasons mentioned in the application, the same is allowed and copy of the application dated 28.08.2023 is ordered to be taken on record. The application stands disposed of.
- Main Case** : Challenge in this revision petition filed under Article 227 of the Constitution of India is to the order dated 18.10.2023 (Annexure P-5), passed by learned Civil Judge (Junior Division), Abohar (for brevity – the Trial Court), whereby application filed by respondents no.1 and 2/plaintiffs has been allowed and Satnam Chand (PW-3) has been directed to provide his handwriting specimen.

3. The brief facts, as culled out from the petition are that respondents no.1 and 2 filed a suit for declaration against the petitioner and proforma respondents to the effect that notwithstanding anything contained in the revenue record, they are in possession of the suit land measuring 33 kanals 14 marlas, as mentioned in the plaint dated 20.09.2018 (Annexure P-1). Petitioner contested the suit by filing written statement (Annexure P-2). Respondents no.1 and 2 summoned Satnam Chand as witness who stepped into witness box as PW-3 and during his examination-in-chief, writing dated 01.05.2017 (Ex.P-1) was specifically denied by him to be in his hand. On this specific denial by the witness, respondents no.1 and 2 moved application dated 13.03.2023 (Annexure P-3) before the learned Trial Court for directing the said witness to give his specimen writing for comparison with the standard/admitted writing from the Handwriting Expert. The petitioner filed reply to the aforesaid application submitting therein that when the witness has specifically denied execution of writing Ex.P-1 by him, then he cannot be directed to give his specimen writing. However, learned Trial Court, vide impugned order dated 18.10.2023 (Annexure P-5), allowed the application of respondents no.1 and 2 and directed Satnam Chand (PW-3) to give his writing for comparison with the standard/specimen writing.

4. Learned counsel for the petitioner/defendant has submitted that respondents no.1 and 2/plaintiffs summoned Satnam Chand, who was partly examined as PW-3. He has produced on record copy of statement of PW-3 and copy of writing dated 01.05.2017 (Ex.P-1). Same are placed on record.

During his examination-in-chief, writing dated 01.05.2017 (Ex.P-1) was

shown to the witness. He was asked whether the said writing was scribed by him but he replied that it was not written by him. Thereafter, respondents no. 1 and 2/plaintiffs moved application for asking the said witness to give his specimen writing for comparison with the standard/admitted writing from the Handwriting Expert and the same has been allowed. It is the further contention of learned counsel for the petitioner that since the said writing can be proved by the signatory of the said document i.e. Karan Singh and Baldev Singh, so there is no question of comparison of writing on the said document with the standard or admitted writing of the witness from the Handwriting Expert. The witness has specifically denied that document Ex.P-1 was not in his hand, so, he could not be directed to give his specimen hand writing. Since he is not party to the suit, the witness cannot be compelled to give his specimen handwriting for comparison with the writing in question. It is therefore prayed that the impugned order be set aside.

5. Learned counsel for the respondents no.1 and 2 – caveators/plaintiffs, on the other hand, has submitted that plaintiffs were left with no other option but to get the writing Ex.P-1 compared with the specimen handwriting of Satnam Chand (PW-3), who has written the said document.

6. I have heard submissions of learned counsel for the parties and perused the case file.

7. The plaintiffs/respondents no.1 and 2, in order to prove their case, summoned witness Satnam Chand (PW-3) to prove his handwriting on the document dated 01.05.2017 (Ex.P-1). He appeared in the Court. He was partly examined. He made following statement :-

“Stated that I have seen the writing

dated 1/5/2017 ExP1 in the judicial file. The ExP1 is not written by me. I am ready to give my handwriting if the Court will order. At this stage Chief Examination is deferred to prove the handwriting.”

8. Keeping in view the fact that it is the specific case of respondents no.1 and 2/plaintiffs that writing dated 01.05.2017 (Ex.P-1) is in the hand of Satnam Chand (PW-3) but he has denied the same. So, the plaintiffs were required to first cross-examine the said witness with the permission of the Court, as per provisions of Section 154 of the Indian Evidence Act, 1872, which is being reproduced hereunder for ready reference :-

“154. Question by party to his own witness – [(1)]
The Court may, in its discretion, permit the person who calls a witness to put any question to him which might be put in cross-examination by the adverse party.

[(2) Nothing in this section shall disentitle the person so permitted under sub-section (1), to rely on any part of the evidence of such witness.]”

9. It is art of cross-examination which can bring true facts on the file and only thereafter, plaintiffs could move application for giving specimen handwriting by the scribe of the said document. If witness, in the cross-examination, admits the writing, then there is no ground to get his specimen handwriting, otherwise request for the same can be made. There is no bar that a witness cannot be asked to give his specimen handwriting for the purpose of comparison with the document relied upon and scribed by him.

10. In view of above discussion, the impugned order dated 18.10.2023 passed by learned Trial Court is set aside. The plaintiffs/respondents no.1 and 2 can make a request to cross-examine their own witness PW-3. Then, Court is competent to allow the same. In case, comparison of handwriting with writing (Ex.P-1) is required, then they can press the application for asking the aforesaid witness namely Satnam Chand (PW-3) for giving his specimen handwriting for the purpose of comparison with document dated 01.05.2017 (Ex.P-1).

11. With the aforesaid observations, the present revision petition stands disposed of.

12. Pending applications, if any, shall stand disposed of along with this judgment.

December 04, 2023
monika

(GURBIR SINGH)
JUDGE

Whether speaking/reasoned ?	Yes/No.
Whether reportable ?	Yes/No.