2024:PHHC:093379

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1.**CR-7292-2017 (O&M)**

Hardyal Singh

....Petitioner

Versus

Bachan Singh and others

..Respondents

2.**CR-7401-2017 (O&M)**

Hardyal Singh

....Petitioner

Versus

Bachan Singh and others

..Respondents

Date of decision: 24.07.2024

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Harsh Aggarwal, Advocate for the petitioner

Mr. Saurav Bhatia, Advocate for respondent no.1 and 2

ANIL KSHETARPAL, J (Oral)

1. With the consent of the learned counsel representing the parties, this order shall dispose of two connected civil revision petitions filed by the plaintiff to assail the correctness of two interlocutory orders passed by the trial court.

2. The plaintiff has filed a suit for specific performance of the agreement to sell, which is pending. When the case was at the stage of plaintiff's evidence, he filed an application for permission to get the opinion of a handwriting and finger print expert with regard to the

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signatures of Sh.Bachan Singh, Sh.Siri Chand and Sh.Shamsher Singh on the registers maintained by the scribe and the stamp vendor which was dismissed by the court on the ground that the previous application filed by the plaintiff was dismissed.

3. Learned counsel representing the petitioner submits that previously the petitioner filed an application for comparison of signatures from photocopy of the agreement to sell whereas the signatures of the aforesaid persons, in original, are available in scribe's register as well as stamp vendor's register, which are available.

4. Per contra, the learned counsel representing the respondents submit that the case is now at the stage of rebuttal evidence.

5. This Court has considered the submissions made by the learned counsel representing the parties.

6. In CR-7401-2017, the petitioner assails the correctness of the order dated 09.10.2017, passed by the trial court closing his evidence while dismissing the petitioner's application for taking coercive measures to ensure the presence of Sh.Davinder Singh, one of the marginal witnesses of the agreement to sell.

7. It is evident that the case was at the stage of the plaintiff's evidence when the application was filed by the plaintiff to seek permission of the court to produce opinion of the expert. Once the case was at the stage of plaintiff's evidence, there was no requirement of seeking permission of the court. The plaintiff can always lead relevant evidence including the expert's opinion, if found relevant. In this case, the defendants are disputing their signatures on the agreement to sell.

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Hence, the opinion of the handwriting and finger print expert shall be relevant. Similarly, the trial court has also erred in refusing to take coercive measures to ensure the presence of witness who has already been summoned. The trial court is required to give fair opportunity to the parties to lead evidence and if the help of the court has been sought in summoning the witness, then the court must take steps to ensure the presence of the witness in accordance with law.

8. Keeping in view the aforesaid facts and discussion, both the revision petitions are allowed. The plaintiff shall have liberty to produce opinion of the expert and the trial court will make sincere endeavour to secure the presence of the witness.

9. All the pending miscellaneous applications, if any, are also disposed of.

24.07.2024 **(ANIL KSHETARPAL)**
rekha **JUDGE**
Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

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