

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CR No.583 of 2024 (O&M)
Date of Decision: 09.04.2024

Rajni Devi

...Revisionist-Petitioner

Versus

Dwarka Dass and another

...Respondents

CORAM: ***HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA***

Present:- Ms. Pushpinder Kaur, Advocate appearing for
 Mr. Sandeep Singh Jattan, Advocate
 for the revisionist-petitioner.

MEENAKSHI I. MEHTA, J. (Oral)

By filing the instant revision-petition under Article 227 of the Constitution of India, the petitioner-plaintiff (here-in-after to be referred as 'the plaintiff') has laid challenge to the order (Annexure P-1) handed down by learned Civil Judge (Junior Division), Ambala (for short 'the trial Court') on 10.01.2024 in ***Civil Suit No.1571 of 2015*** titled as '***Rajni Devi vs. Dwarka Dass and another***', whereby the application (Annexure P-4), moved by her for seeking permission to produce the report of the hand-writing and finger-print expert on the record in her rebuttal evidence, for proving the signatures of DW-1 Shanti Devi and Dwarka Dass, i.e the respondents-defendants (here-in-after to be referred as 'the defendants'), on the documents Exhibited as P1 to P3 and other relevant documents, with a further prayer to allow the above-said expert to take their (defendants') sample signatures from the Court file so as to compare the same with their disputed signatures, as appearing on the afore-mentioned documents, has been dismissed.

2. I have heard learned counsel appearing for the petitioner-plaintiff in the present revision-petition, at the preliminary stage and have also perused the file carefully.

3. Learned counsel appearing for the plaintiff contends that the plaintiff has filed the above-referred Civil Suit for seeking the possession of the suit property, by way of specific performance of the agreement to sell, i.e Exhibit P-2, as executed by defendant No.1 in her favour but during her cross-examination as DW-1, she (defendant No.1) has denied her own signatures and also the signatures of her husband Dwarka Dass on Exhibits P-2 and P-3 as well as her signatures on Exhibit P-1 and therefore, it is essential for the plaintiff to lead evidence in rebuttal to negate the afore-discussed depositions, as made by DW-1 but vide the impugned order, the trial Court has wrongly dismissed application Annexure P-4, filed by her for the above-said purpose and in these circumstances, it becomes quite explicit that the said order is not legally sustainable and hence, it deserves to be set-aside.

4. However, the afore-raised contentions do not cut much ice with this Court because the plaintiff has claimed the relief in the Suit on the strength of the above-mentioned documents and a perusal of written-statement Annexure P-3 reveals that the defendants have categorically denied therein, the factum of the execution of these documents by them, meaning thereby that the plaintiff was well-aware of their afore-said stance/version, even since prior to the framing of the issues and the commencement of the trial in the Suit and it being so, it was entirely for her to adduce the evidence, in affirmative, to prove the execution of the above-referred documents by the defendants. It has categorically been observed by the Division Bench of this Court in **Surjit Singh and Others versus Jagtar Singh and Others, 2007(1) RCR (Civil) 537** that “Order 18 Rule 3 of the CPC would not give a right to the plaintiff to

lead evidence in rebuttal on issues in which the onus of proof is on the plaintiff”. These observations are fully applicable to the instant case and in the light of the same, it is held that the plaintiff cannot be allowed to lead the evidence in rebuttal, as prayed for by her in the afore-said application.

5. As a sequel to the fore-going discussion, it follows that the impugned order does not suffer from any illegality, infirmity, irregularity or perversity so as to warrant any interference by this Court. Resultantly, the revision-petition in hand, being *sans* any merit, stands dismissed.

09.04.2024
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(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: Yes
Whether Reportable: Yes