

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

123

CR-1873-2024 (O&M)
Decided on: 30.05.2024

BALKAR SINGH

...Petitioner

Versus

SATPAL

...Respondent

CORAM: HON'BLE MRS JUSTICE RITU TAGORE

Present: Mr. R. S. Rangpuri, Advocate
for the petitioner.

Mr. Rehan Gupta, Advocate
for the respondent.

RITU TAGORE, J.

CM-10233-CII-2024

This application is for placing on record Annexures R-1 to R-3.

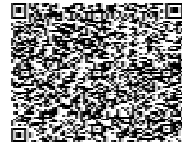
Application is allowed as prayed for.

Annexures R-1 to R-3 annexed with the application are taken
on record, subject to just exceptions.

CM-10239-CII-2024

This application is for placing on record Annexure P-10 and
exemption from filing certified copy of the same.

Application is allowed as prayed for.



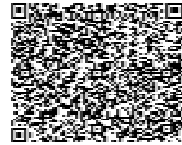
Annexure P-10 annexed with the application is taken on record, subject to just exceptions.

CR-1873-2024

1. This revision is directed against the order dated 19.02.2024 passed by learned Civil Judge (Senior Division), Sri Muktsar Sahib (Annexure P-2), in Civil Suit No. 254 of 2019 tiled as 'Satpal Vs. Balkar Singh' vide which learned trial Court dismissed the petitioner's application to recall Kuldeep Kumar (PW-1) for taking his specimen writing for comparison with writing in the account books Ex. P-1 to Ex. P-30.

2. Learned counsel for the petitioner (defendant before learned trial Court) submits that respondent (plaintiff before learned trial Court) filed a suit for recovery of Rs. 49,50,000/- (Annexure P-3) based on *Bahi* entries contained in the account books of the respondent-plaintiff. It is stated that during course of his evidence, respondent-plaintiff, examined Kuldeep Kumar (PW-1) his clerk, who tendered the photocopies of the *Bahi* entries (Ex. P-1 to P-30), affirming them to be in his handwriting.

3. Learned counsel for the petitioner-defendant, argues that a bare perusal of *Bahi* entries (Ex. P-1 to P-30) would reveal that they are in different handwritings. In order to establish that Kuldeep Kumar (PW-1) is not a trustworthy witness and *Bahi* entries (Ex. P-1 to P-30) are not in his handwriting, but are false and fabricated entries, there is need to examine and compare the writing of the *Bahi* entries with the specimen handwriting of Kuldeep Kumar (PW-1) from a handwriting and fingerprint expert. For that purpose, petitioner had moved an application dated 20.07.2023 (Annexure P-1), for recalling of PW-1 and taking his specimen writing for



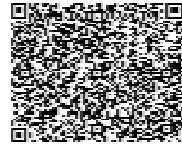
comparison with disputed *Bahi* entries by handwriting and fingerprint expert.

4. Learned counsel submits that the learned trial Court dismissed the application in illegal manner without comprehending the controversy in hand. It is stated that comparison of specimen handwriting of Kuldeep Kumar (PW-1) with disputed writings Ex. P-1 to Ex P-30 from a handwriting and fingerprint expert is very crucial for effective and judicious decision of the case. It is thus prayed that the impugned order be set aside, and application (Annexure P-1) be allowed.

5. In defence of the order, learned counsel for the respondent-plaintiff submits that the learned trial Court rightly dismissed the application, after weighing all the facts and circumstances of the case. Learned counsel contends that there being no merit in revision-petition, same should be dismissed.

6. I have heard learned counsel for the parties and have gone through the paper book with their able assistance.

7. It is a matter of record that the respondent (plaintiff) instituted a suit for recovery of Rs.49,50,000/- along with interest @ 18% per annum against the petitioner (defendant) based on *Bahi* entries, contained in the account books of the respondent (plaintiff) firm. The respondent (plaintiff), *inter alia* pleaded that business of commission agency is being run by plaintiff, Satpal, under the name of proprietorship firm M/s Bhagmal Satpal, at new grain market Sri Muktsar Sahib. The firm maintains accounts of its customers in ordinary course of business. It is further averred in the plaint that petitioner (defendant) is the customer of plaintiff's firm and used to sell



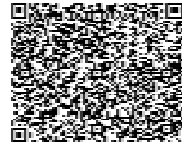
his crops through its commission agency and take loan as and when required. Accordingly, necessary entries were carried against the account of petitioner-defendant in regular course of its business. The respondent-plaintiff, after raising several pleas in the plaint, alleges that a sum of Rs.49,50,000/- is outstanding against the petitioner (defendant), who has failed to repay the same in timely manner that led to the filing of this suit.

8. The petitioner (defendant) upon receiving notice, put appearance in the aforesaid suit and filed his written statement (Annexure P-4) raising several defences. He challenged the *Bahi* entries and account books of the respondent-plaintiff, alleging them to be forged and fabricated entries. However, admitted his business dealing with the plaintiff and its firm, while denying the case of the respondent (plaintiff), and prayed for its dismissal.

9. Learned trial Court, after considering the pleadings of the parties, framed the issues and invited the parties to present their evidence. Respondent-plaintiff, in order to substantiate his case, examined Kuldeep Kumar (PW-1), the Accountant of his firm, who during cross-examination (Annexure P-10) specifically stated that the *Bahi* entries (Ex.P-1 to P-30) are in his handwriting and categorically denied the suggestion that entries are not in his handwriting, or that they are forged and fabricated. When questioned further, he showed his willingness to give his specimen handwriting.

10. Petitioner-defendant in his testimonial affidavit (Annexure R-1), alleges that the account books (*Bahi* entries) are forged and fabricated.

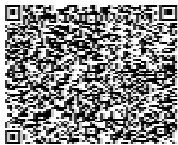
However, during cross-examination he admits to his business dealings with



respondent-petitioner, including taking advance/loan from the petitioner-firm in form of cash or cheques as per his requirement. He also identifies his signature in the ledger books of the firm, however, clarifies that his signatures were taken on blank papers.

11. The material on record, indicates that respondent-plaintiff has already concluded his evidence and petitioner-defendant has also examined two witnesses in his evidence. The petitioner does not deny his business dealings with the respondent (plaintiff) and his signatures on the ledger books. His explanation that his signatures were taken on the blank paper, is to be tested on the merits of the case after appreciation of evidence. Insofar as the plea of the petitioner, that there are visible difference in the handwritings of the *Bahi* entries (Ex. P-1 to P-30), is again a matter for the Court to assess. In these circumstances, recall of the witness Kuldeep Kumar (PW-1) for the purpose of taking his specimen handwriting and comparing with the disputed *Bahi* entries from the handwriting and fingerprint expert is clearly not made out, notwithstanding witness Kuldeep Kumar agreed to give his specimen handwriting. The learned trial Court has rightly declined the prayer of the petitioner in the given circumstances.

12. In view of the reasons stated above, the learned trial Court has rightly exercised the jurisdiction vested in it while rejecting the prayer of the petitioner for the recall of witness (PW-1) for taking his handwriting for comparison from the handwriting expert. This Court find no illegality or perversity in the order, warranting interference in the revisional-jurisdiction of this Court. Accordingly, revision petition stands dismissed.



13. It is noted that observations made above should not be construed as an expression of opinion on the merits of the case. Same are purely confined to the present controversy and deliberations.

14. Pending applications, if any, also stands disposed of accordingly.

(RITU TAGORE)
JUDGE

30.05.2024
Rimpal

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No