



In the High Court of Punjab and Haryana at Chandigarh

CR No.4694 of 2022(O&M)

Date of Decision: 14.08.2024

Satpal Malik

.....Petitioner

Versus

M/s Rameshwar Dass and sons

....Respondents

CORAM: HON'BLE MRS. JUSTICE RITU TAGORE

Present: Mr. Ishan Khetarpal, Advocate for the petitioner.

Mr. Yagsimant Attri, Advocate for the respondents.

RITU TAGORE, J.

1. This revision petition, filed under Article 227 of the Constitution of India read with Section 151 of the Code of Civil Procedure, 1908 (in short 'CPC), is against the order dated 12.09.2022 (Annexure P-8), passed by learned Civil Judge (Junior Division), Kaithal, in a Civil Suit bearing No.CS/474/2017 titled as "M/s Rameshwar Dass and Sons through Rampal Vs. Sat Pal Malik", whereby an application (Annexure P-5), filed by the petitioner/defendant for directing the respondent/plaintiff to produce the original account books (*bahi* entries) in the Court for inspection and comparison by Handwriting Expert, has been dismissed.

2. Learned counsel submits that respondent/plaintiff, filed a suit (Annexure P-1), for recovery of Rs.16,25,650/- along with 18% *pendente lite* and future interest , against the petitioner, based on the entries made in the account books of the plaintiff -firm , which has been challenged by the petitioner/defendant being fabricated and forged entries. It is submitted that



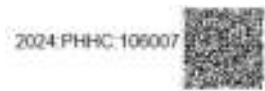
in order to substantiate his version, the petitioner/defendant moved an application (Annexure P-5) for inspection and comparison of the account books of the respondent/plaintiff – firm from the Handwriting Expert, which has been illegally and arbitrarily dismissed by the learned Trial Court, vide order dated 12.09.2022 (Annexure P-8).

3. It is stated that the impugned order dated 12.09.2022 (Annexure P-8) has worked harshly upon the petitioner, as he has been prevented from substantiating his version and rebutting the case of the respondent-plaintiff . However, learned counsel undertakes to conclude the evidence on behalf of the petitioner in one opportunity. A prayer is therefore made to set aside the order, with further prayer to have the relevant entries of the account books of the respondent- firm, inspected and compared from the Handwriting Expert.

4. Per contra, learned counsel for the respondent/plaintiff supported the order, stating that the petitioner/defendant failed to present such an application earlier, when the original record of the account books was produced in the Court during the evidence of the respondent-plaintiff and his witnesses. The application (Annexure P-5) was belatedly moved, seemingly to delay the proceedings. It is submitted that petition lacks merit and should be dismissed.

5. I have heard learned counsel for the parties and perused the paper-book and the documents annexed.

6. Having considered the pleadings of the parties, wherein the petitioner/defendant is assailing the account book entries of the respondent/plaintiff firm, based on which the respondent/plaintiff has instituted the suit for recovery against the petitioner, to the considered



opinion of this Court, inspection and comparison of the account books (*bahi* entries) is essential in the light of the petitioner’s stand taken in his written statement. The denial of such a prayer by the learned Trial Court has certainly prejudiced the petitioner materially as he has been prevented to put forth his stand and rebut the version of the petitioner. Moreover, the proposed evidence would have helped the Court to resolve the controversy between the parties comprehensively and completely. Furthermore, learned counsel for the petitioner undertakes to conclude his evidence in one opportunity.

7. As a sequel to the aforesaid discussion, the order under challenge does not withstand judicial scrutiny and is hereby set aside, with further direction to the respondent/plaintiff to bring the original account books on the date fixed before the learned Trial Court for inspection and comparison by the Handwriting Expert of the petitioner/defendant. The learned Trial Court shall give one effective opportunity to the petitioner/defendant to lead his evidence in this regard.

8. The instant revision petition is allowed in the above terms.

9. Pending miscellaneous application(s), if any, is/are disposed of accordingly.

AUGUST 14, 2024
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(RITU TAGORE)
JUDGE

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