

Hon'ble Tarun Agarwala, J.

Mr. Anirudha Joshi, Advocate on behalf of Mr. Sharad Sharma, Senior Advocate for the petitioner.

Mr. R.C. Arya, Standing Counsel for the State.

Ordersheet indicates that the opposite parties have been served. No counter affidavit has been filed. It transpires that an application was moved directing the production of the original register in order to ascertain the entries with regard to the death of one Veer Bhan. This application was rejected, against which, writ petition No. 368 of 2006 (M/S) was filed. The Court by an order dated 13th April, 2006 disposed of the writ petition with a direction that it would be open to the Presiding Officer to summon the original register with regard to the death of Veer Bhan. Subsequently, a review application was filed which was disposed of by an order dated 28th June, 2006 directing that it would be open to the Court if it finds proper to get the entries examined by an expert. Pursuant to the said orders, it transpires that the petitioner moved an application 140-Ga reiterating his earlier prayer, namely, that the register be summoned and the entries be examined by an expert. This application was rejected by the court below holding that it

would be open to the parties to lead such evidence and it would not be necessary to summon the record at that stage. The petitioner, being aggrieved by the said order, has filed the present writ petition.

Having heard the learned counsel for the petitioner, the Court is of the opinion that the discretion exercised by the court below was perfectly legal and justified which calls for no interference. This court by an earlier order had left it open to the court below to ascertain the entries in the register, if it was required to do so either himself or through an expert. The court has rightly held that the fact whether the entries were forged or were genuine could be proved by other documentary evidence for which it was open to the parties to lead such evidence.

In view of the aforesaid, the court does not find any error in the impugned order. The writ petition fails and is dismissed.

Certified copy of the order shall be sent by the Registry to the court below within ten days from today for necessary information and action.

(Tarun Agarwala, J.)

Dated 30.12.2011

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