

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

Civil Revision No.76 of 2026
Decided on: 1st September, 2026

Sanjay@ Sandeep Kumar
...Petitioner

versus

Vineet Kumar
...Respondent

Coram
Hon'ble Mr.Justice Jiya Lal Bhardwaj, Judge.
Whether approved for reporting?¹

For the petitioner:	Mr. Ravi Patial, Advocate vice Mr. Arvind Negi, Advocate.
For the respondent:	Mr. Shivalik Bhaik, Advocate vice Ms. Shalini Thakur, Advocate.

Jiya Lal Bhardwaj, Judge (Oral)

The petitioner is aggrieved by the order dated 07.05.2026 passed by the learned Senior Civil Judge, Nahan, District Sirmaur, H.P. whereby an application filed by the applicant/defendant No.2/petitioner herein under Sections 45 and 73 of the Indian Evidence Act (now Sections 39(1) and 72 of the Bharatiya Sakshya Adhiniyam, 2023) (in short 'BSA') has been rejected.

¹ Whether the reporters of Local Papers may be allowed to see the judgment?

2. The respondent/plaintiff has filed a suit for specific performance of contract on the basis of agreement dated 01.03.2017, which was executed by the father of the defendants. When the matter was listed for arguments, an application came to be filed by one of the defendants i.e. the petitioner/defendant No.2 under Sections 45 and 73 of the Indian Evidence Act (now Sections 39(1) and 72 of the BSA), averring therein that in fact father of the petitioner/defendant No.2 did not execute any agreement of sale with the respondent/plaintiff and the signatures on the alleged agreement are not that of his father, and as such a need had arisen to file an application for getting the opinion of the expert. It was also averred that father of the petitioner/defendant No.2 had executed a GPA vide registration No.24 of 2017 dated 23.05.2017 before the Sub-Registrar, District Sirmaur, H.P. and on the said agreement, the signature of his father is the original signature. The certified copy of the GPA was also attached.

3. The respondent/plaintiff filed reply to the application and averred that the application has been filed only to harass him. It has been filed at a highly belated stage, when the entire evidence of both parties stands concluded and the matter is fixed for final arguments. It was also averred that a vague allegation that the document is forged, does not amount to a specific denial of

signatures as required under Order VIII Rules 3, 4 and 5 of the Code of Civil Procedure. One of the issues in the case was with respect to the 'document being fabricated', which was to be proved by the defendants, but despite having full opportunity during defence evidence, they did not examine any handwriting expert nor moved any application for comparison of signatures at an appropriate stage.

4. The petitioner/defendant No.2 filed rejoinder to the reply and controverted the averments made therein.

5. The learned trial Court on the basis of the pleadings and further taking note of the fact that the petitioner/defendant No.2 was granted many opportunities to cross-examine the witnesses and thereafter to produce the evidence came to the conclusion that by merely producing a photocopy of GPA stated to be of his father, the same cannot be sent for comparison as original was withheld by him. Further, the GPA which was already referred by PW-5 Vijay was between the plaintiff and father of the defendants and they had not taken any attempt to prove that it was result of forgery and all the witnesses have connived with the respondent/plaintiff as onus was on them, and hence the application was dismissed.

6. The petitioner/defendant No.2 who is one of the defendants only, feeling aggrieved by the order of rejection of application filed by him for comparison of signatures has approached this Court *inter alia* on the grounds that the order passed by the learned trial Court is illegal, arbitrary, and contrary to settled principles governing adjudication of disputed signatures which has resulted in grave failure of justice. The learned trial Court has failed to appreciate that the very foundation of the plaintiff's suit rests upon the alleged agreement dated 01.03.2017, and once its execution itself was specifically denied, the determination of genuineness of signatures became a material and substantive issue going to the root of the matter, and as such, prayed for the setting aside of the order passed by the trial Court.

7. I have heard the learned counsel for the parties and also perused the case file.

8. A perusal of the order passed by the learned trial Court, whereby the application filed by the petitioner/defendant No.2 has been rejected reveals that the same was filed when last opportunity was granted to the defendants to argue the matter. Even at the stage of PWs on 21.03.2024, an opportunity was taken by the defendants to cross-examine the witnesses. Thereafter on 11.09.2024, an opportunity was again taken to cross-examine the

witnesses and on 19.10.2024 and 21.12.2024, again opportunities were taken by them to cross-examine the witnesses. Thereafter, the matter was listed for recording the evidence of the defendants on 06.05.2025 and on 6th opportunity, a witness was produced on 27.11.2025 and till that time, no attempt was made for getting the signatures compared.

9. The petitioner/defendant No.2, if was so concerned about comparison of the signatures, he should have filed the application when the evidence was started. Since the petitioner/defendant No.2 had adopted a casual approach and the application was filed at the time of listing the matter for arguments, no illegality has been said to be committed by the learned trial Court, whereby the application for comparison of signatures has been rejected.

10. This Court, while exercising the revisional power, can only interfere with the order passed by the trial Court, if the jurisdiction which has been exercised was not vested with it or the same has materially caused prejudice to the party for non-compliance of the principles of natural justice. In the instant case, the petitioner/defendant No.2 had taken numerous opportunities even to cross-examine the witnesses examined by the respondent/plaintiff and thereafter when the matter was listed for

recording the evidence of the defendants, on 6th opportunity, the evidence was produced, which shows that that the attempt of the petitioner/defendant No.2 was only to delay the proceedings and nothing else.

11. The petitioner/defendant No.2 even with the application for comparison of signatures had not annexed the original copy of the GPA. The signatures can be compared only with the original and not either with the photocopy or certified copy. Thus, the learned trial Court has not committed any error while dismissing the application filed by the petitioner/defendant No.2 and I do not see any reason to interfere with the order under challenge.

12. Resultantly, there is no merit in the present petition and the same is accordingly dismissed. No order as to costs. Pending applications, if any also stand disposed of.

1st September, 2026
(naveen)

(Jiya Lal Bhardwaj)
Judge