

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**CR No. 310 of 2015
Date of decision : 14.1.2015**

Janak Raj

.....Petitioner

v.

Shri Bhagat Ram and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present : Mr. Ajaivir Singh, Advocate, for the petitioner

Rakesh Kumar Jain, J.

This revision petition is against the order dated 8.12.2014 by which the application, moved by the plaintiff for seeking permission of the Court for comparison of the signatures with the alleged signatures on compromise 'Mark A', has been declined.

The petitioner/plaintiff filed a suit for specific performance of agreement to sell dated 3.10.2011 in respect of the land measuring 31 kanal 2 marlas for which he alleged to have paid Rs.5 lakhs as earnest money of the total sale consideration of ₹ 40 lakhs. The defendant has taken the plea that the said agreement was rescinded with the intervention of the Panchayat on 30.3.2012 and a sum of ₹ 19,50,000/-was agreed to be refunded out of which ₹ 17 lakhs was paid and ₹ 2.50 lakhs was paid lateron. The issues were framed on 10.2.2014. During the cross examination, defendant No.1 produced compromise which has been marked as 'Mark A', on which the plaintiff denied his signatures. However, in order to prove that there was no such Panchayat convened to avoid the agreement to sell dated 3.10.2011

and the signatures of the plaintiff were forged on the said writing, moved an application on 15.11.2014, when the plaintiff was leading his evidence. But the said application was dismissed vide impugned order dated 8.12.2014. Learned counsel for the petitioner has submitted that the learned Court below has committed an error in dismissing the application on the ground of delay.

There is no dispute that the agreement was admitted by the defendant/respondent but in the written statement he has taken the plea that the said agreement was cancelled in the Panchayat on 30.3.2012 and a writing was executed duly signed by the plaintiff in the presence of the witnesses on the ground that an amount of ₹ 19.50 lakhs was also paid by defendant No. 1 to the plaintiff. Although the plaintiff filed the application for summoning the witnesses but he did not ask for examining any Hand Writing and Finger Print Expert for comparison of the signatures on the alleged compromise 'Mark A' though it was within his knowledge even before the commencement of the evidence. The plaintiff had denied his signatures on the compromise 'Mark A' dated 30.2.2012 and after his own examination as PW3 on 20.10.2014, the application was filed on 15.11.2014 after availing effective opportunities.

In these circumstances, there was hardly any error on the part of the Court below for rejecting the prayer of the petitioner for comparison of the signatures. Hence, the present revision petition is without any merit.

Dismissed.

(Rakesh Kumar Jain)
Judge

14.1.2015
Ashwani