

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.**

**CR No. 2168 of 2014(O&M)
Date of decision :17.05.2016**

Pritam Singh

..... Petitioner

Versus

Angrej Singh and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr.M.K.Sajjan, Advocate
for the petitioner.

Mr. R.L.Batta, Sr. Advocate
with Mr. Nikhil Batta, Advocate
for the respondents.

- 1. Whether Reporters of Local papers may be allowed to see the judgment?Yes.**
- 2. To be referred to the Reporters or not?Yes.**
- 3. Whether the judgment should be reported in the Digest?Yes.**

DARSHAN SINGH, J. (Oral)

The present revision petition has been preferred by the petitioner for modification of the order dated 05.08.2013 (Annexure P-2) and for quashing the order dated 01.03.2014 (Annexure P-4) passed by the learned Additional Civil Judge (Senior Division), Zira, whereby the application for taking photographs of the thumb impression of Pirthi Singh-Lambardar, has been disallowed.

2. Learned counsel for the petitioner contended that Pirthi Singh, Lambardar was the attesting witness of the agreement to sell dated 08.11.1997 executed by Basant Singh in favour of the plaintiff. He contended that one of the attesting witness has turned hostile and Pirthi Singh, Lambardar has already died. Moreover, he had later on purchased the suit land and was impleaded as defendant. So, examination of the expert witness to prove the thumb impressions of Pirthi Singh, Lambardar on the agreement to sell dated 08.11.1997 was very necessary for just decision of the case.

3. On the other hand, learned counsel for the respondents contended that when the evidence of the plaintiff-petitioner started, said Pirthi Singh, Lambardar was alive. The plaintiff has not made any efforts to obtain the standard thumb impressions or to produce him in the witness box. Now, he cannot be allowed to lead the expert evidence to prove the thumb impressions of Pirthi Singh, Lambardar on the alleged agreement to sell dated 08.11.1997.

4. I have duly considered the aforesaid contentions.

5. This fact is not disputed that when the present application was moved, the evidence of the plaintiff was being recorded. It is not proper to gag the right of the plaintiff to produce the evidence, which he requires to prove his case. It is not the case where the plaintiff-petitioner wanted to lead the

additional evidence after voluntarily closing his evidence, rather the application was moved when the evidence of the petitioner-plaintiff was still going on and for the delay in moving the application, the opposite party can be well compensated by way of costs.

6. Thus, keeping in view my aforesaid discussion, the present revision petition is hereby allowed. The application moved by the petitioner to take the photographs of the thumb impression of deceased-Pirthi Singh, Lambardar available on the sale deed dated 19.01.2000 available on record of the case and to examine the document expert to prove the thumb impressions of Pirthi Singh, Lambardar on the agreement to sell dated 08.11.1997 is hereby allowed subject to Rs. 2000/- as costs.

17.05.2016

S.khan

**(DARSHAN SINGH)
JUDGE**