

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CR No. 486 of 2016 (O&M)
Date of Decision : 25.01.2016

Surinder Mohan

.....Petitioner

Versus

Suraj Parkash

.....Respondent

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Amit Dhawan, Advocate
for the petitioner.

Surinder Gupta, J. (Oral)

Heard.

Learned counsel for the petitioner submits that plaintiff-petitioner has filed suit for specific performance of agreement to sell dated 28.08.1997 and concluded the evidence. The defendant, however, examined handwriting and fingerprint expert and to counter that evidence plaintiff-petitioner moved an application to examine his handwriting expert by way of additional evidence. However, his application was declined by the Civil Judge (Junior Division), Jalandhar on the ground that opportunity was available to the plaintiff-petitioner to examine handwriting expert while leading evidence in affirmative and placed reliance on the observations of this Court in case **Ram Kumar vs. Raj Kumar and others, 2014 (3) Civil Court Cases 453 (P&H)**. The observations in above referred case are not applicable to this case as in that case no expert had been examined by the defendant. The examination of expert is required by the plaintiff-petitioner to prove that the agreement bear signatures of defendant-respondent.

On perusal of order passed by learned Civil Judge (Junior Division), Jalandhar, I find that plaintiff-petitioner got

enough opportunities to produce evidence in affirmative. The written statement was filed by the defendant in the year 2011 wherein he took a categorical plea that the agreement to sell is fake, forged and fabricated document. Thereafter, plaintiff-petitioner led his evidence but did not examine an expert. The defendant in order to prove his plea examined the handwriting and fingerprint expert. The opportunity was available with the petitioner to examine the handwriting expert while leading evidence in affirmative. The plea taken by the defendant-respondent was well within the knowledge of petitioner, as such, he cannot allege that he was taken by surprise when the defendant had examined handwriting and fingerprint expert. Learned Civil Judge (Junior Division) has rightly relied on the observations in case of **Ram Kumar (supra)**.

No reason is made out to allow this revision petition. The order of learned Civil Judge (Junior Division) suffers from no legal or factual infirmity calling for interference.

The instant revision petition has no merit and the same is dismissed.

January 25, 2016
jk

(SURINDER GUPTA)
JUDGE