

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

CR No.5031 of 2016(O&M)

Date of decision:8.8.2016

Davinder Chopra

....Petitioner

VERSUS

Subhash Chopra and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

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

REKHA MITTAL, J. (Oral)

The present petition lays challenge to order dated 20.07.2016 (Annexure P-3) passed by the Civil Judge (Senior Division), (NRI Cases) Jalandhar whereby application of the petitioner for permitting him to take photographs of signatures of Subhash Chander – respondent No.1 on the writing dated 28.10.2008 and that of Harbans Lal (since deceased) on Will dated 16.03.1993 for comparison with their admitted signatures by a handwriting and fingerprints expert and to examine that witness has been dismissed.

Counsel for the petitioner/plaintiff has submitted that as examination of expert witness would help in elucidation of the disputed facts and serve the interest of substantial justice, the trial Court should have allowed the application. It is further submitted that no prejudice would be caused to the other party as they can be provided with an opportunity to rebut evidence of expert, if allowed to be examined.

I have heard counsel for the petitioner, perused the paper-book particularly the order impugned but find that the petition is not meritorious and deserves to be dismissed.

The learned trial Court, in the concluding para (para 4) of the impugned order has noticed that the petitioner was well within his right to examine an expert if so desired or bring any other evidence in affirmative but not by way of rebuttal. Counsel for the petitioner is not in a position to convince this Court that in view of the provisions of Order 18 of the Code of Civil Procedure, 1908, how the petitioner can be given an opportunity to examine a handwriting expert in rebuttal evidence. That being so, I do not find any error much less illegality in the impugned order warranting intervention.

For the foregoing reasons, the petition fails and is accordingly dismissed in *limine*. No order as to costs.

AUGUST 8, 2016
'D. Gulati'

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned : yes/no

Whether reportable : yes/no