

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

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CR No.5710 of 2016

Date of Decision: October 25, 2016

DAVINDER KAUR AND ANR

-PETITIONERS

VS

AVTAR SINGH AND ORS

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr.Satish Goel, Advocate
for the petitioners.

Mr.Munish Gupta, Advocate
for the caveator/respondents No.1 and 2.

RAJ MOHAN SINGH, J. (ORAL)

Petitioners have assailed order dated 01.08.2016 passed by Civil Judge (Jr. Divn), Kharar, District Mohali vide which their application for leading additional evidence for comparison of thumb impression of Prem Singh by summoning the case file of civil suit titled as Karam Singh versus Jagjit Singh pending in the court of Civil Judge (Sr. Divn), Fatehgarh Sahib was dismissed.

Evidently, the Will dated 13.12.2003 was challenged in the suit.

Learned counsel for the petitioners submitted that factum of Prem Singh having thumb marked the Will twice on one place came to be noticed and therefore, necessity

arose for comparing the thumb impression of Prem Singh by means of Handwriting Expert so as to cull out the truth.

On the other hand, learned counsel for the caveator/respondents No.1 and 2 vehemently submitted that factum of Will was assailed by the plaintiff himself in respect of property situated in District Fatehgarh Sahib and that suit was dismissed. Will has been challenged again in respect of property at District Mohali. The file of case titled as Karam Singh vs. Jagjit Singh is claimed to be on questionable note as the alleged thumb impression of Prem Singh appearing in the said case are not the admitted signatures. Moreover, the plaintiffs have already concluded their evidence. Evidence of the defendant also stands concluded. The case is already fixed for orders on 01.11.2016 after conclusion of the arguments.

In view of nature of evidence which is sought to be adduced, no indulgence can be granted at this stage. Onus of the issue was already on the plaintiff himself. The expert cannot be allowed to be examined in respect of an issue, the onus of which was on the plaintiff himself.

In view of aforesaid, I find no error of jurisdiction in the impugned order passed by the trial Court.

Accordingly, the present revision petition is
dismissed.

**(RAJ MOHAN SINGH)
JUDGE**

October 25, 2016

jyoti Y.