

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT
CHANDIGARH**

**CR No.5289 of 2017
Date of decision:11.8.2017**

Shamsher Rana @ Shamsher

...Petitioner

Versus

Fateh Singh @ Bhey Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

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

RAMESHWAR SINGH MALIK, J. (Oral)

Feeling aggrieved against the order dated 6.1.2017 passed by the learned trial court, whereby application of the petitioner for examination and comparing of disputed and admitted thumb impressions from third Fingerprint and Handwriting Expert was declined, plaintiff has approached this Court by way of present civil revision petition under Article 227 of the Constitution of India, for setting aside the impugned order.

Heard learned counsel for the petitioner.

It has gone undisputed before this Court that at the time of closing his evidence in affirmative, plaintiff-petitioner did not reserve his right under Order 18 Rule 3 of the Code of Civil Procedure ('CPC' for short), for leading his evidence in rebuttal. It is also not in dispute that one Fingerprint and Handwriting Expert has already been examined by the petitioner and another was examined by the defendants, while leading their respective evidence.

After conclusion of the evidence of the defendants, plaintiff moved the application before the learned trial court, permitting him

to examine third Fingerprint and Handwriting Expert, which was rightly declined by the learned trial court, while passing the impugned order. Having said that, this Court feels no hesitation to conclude that the learned trial court was well within its jurisdiction to pass the impugned order and the same deserves to be upheld.

Once the plaintiff-petitioner has closed his evidence in affirmative, without reserving his right under Order 18 Rule 3 CPC for leading evidence in rebuttal, the learned trial court was well justified to dismiss the application of the petitioner. Further, once both the parties have already examined one Fingerprint and Handwriting Experts each, whose evidence is yet to be appreciated by the learned trial court, no prejudice has been caused to the petitioner, by passing the impugned order and the same deserves to be upheld, for this reason also.

In case, the plaintiff is permitted to examine third Fingerprint and Handwriting Expert, thereafter defendants would come forward by moving the similar application for examining fourth Fingerprint and Handwriting Expert and it would be an endless exercise. Parliament has provided the specific remedy to the plaintiff under Order 18 Rule 3 CPC. However, once the plaintiff-petitioner did not avail that opportunity at the time of closing his evidence in affirmative and that too for no good reasons, the learned trial court committed no error of law, while passing the impugned order and the same deserves to be upheld, for this reason as well.

During the course of hearing, learned counsel for the petitioner could not point out any patent illegality or perversity in the impugned order,

which may warrant interference, at the hands of this Court, while exercising its revisional jurisdiction under Article 227 of the Constitution of India. The impugned order is supported by sound reasons, because of which no fault can be found with it and the same deserves to be upheld.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that the instant civil revision petition is wholly misconceived, bereft of merit and without any substance, thus, it must fail. No case for interference has been made out.

Resultantly, with the above-said observations made, the present civil revision petition stands dismissed, however, with no order as to costs.

11.8.2017
mks

(RAMESHWAR SINGH MALIK)
JUDGE

Whether Speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No