

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

**CR No. 552 of 2017
DECIDED ON: JANUARY 31, 2017**

VINOD KUMAR & ANR

....PETITIONERS

VERSUS

TEJ PAL AND ANR

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Dr. Naresh Kaushik, Advocate
 for the petitioners.

JASPAL SINGH, J

By virtue of instant petition preferred under Article 227 of the Constitution of India, petitioners have sought the setting aside of impugned order dated October 14, 2016 (Annexure P-1) passed by learned Additional Civil Judge (Sr. Division), Sohana in Civil Suit No. 860/06.12.2011 titled as “Vinod Kumar and another vs. Tej Pal and another” whereby, the evidence of the petitioners/plaintiffs has been closed and further for granting an opportunity to lead evidence by examining the Finger Print Expert.

While assailing the impugned order, it has been submitted by learned counsel for the petitioners that impugned order is not sustainable in the eyes of law being against the actual facts. In fact the petitioners have not afforded ample opportunity to adduce and conclude their evidence. On October

14, 2016 when the suit was listed for the evidence of the petitioners, the learned counsel appearing on their behalf made a request for adjournment for leading more evidence but their evidence was closed by the Court while saying that it was the last opportunity to conclude their evidence. Immediately, on November 04, 2016 petitioners moved an application for reviewing the order and for grant of one opportunity to lead and conclude their evidence, especially, to examine the handwriting and finger print expert. In fact, during the pendency of suit, the respondent No.1 had given his specimen thumb impression in the Court on October 15, 2015 but due to some inadvertence or oversight, the finger print expert could not be examined. The said omission was on account of communication gap between the petitioners and their counsel. Moreover, their counsel was also unwell. The said application was also dismissed vide order dated December 02, 2016 by the trial Court on the ground that issues were framed on October 22, 2012 and since then large number of opportunities have already been afforded by the petitioners. Learned counsel for the petitioners further prays that only one effective opportunity be accorded to the petitioners to examine the finger print expert.

This Court has given an anxious thought to the submissions made by learned counsel for the petitioners but does not find any legal weight therein.

A glance at the impugned order transpires that issues in this case were framed on October 22, 2012 and the case was listed first time for the evidence of petitioners/plaintiffs on January 09, 2013. Thereafter, the case was adjourned several times for the evidence of petitioners/plaintiffs subject to payment of cost as well as last opportunity but on the last three dates neither the cost was paid nor any evidence was adduced and it was only, thereafter, the

Court was constrained to take a harsh step and closed the evidence. Moreover, specimen thumb impressions of respondent No.1 were obtained in the Court on October 15, 2015. The application was moved when the evidence was likely to be closed. There is nothing on record to suggest as to why such an application was not moved earlier for the examination of expert witness. Since, ample opportunities have already been afforded to the petitioners, this Court does not find any ground for granting further opportunity to lead the evidence to examine the finger print expert or any other witness.

Thus, this court is of the considered view that the impugned order is legally and factually justified and does not call for any interference by this Court.

Dismissed.

JANUARY 31, 2017
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(JASPAL SINGH)
JUDGE

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*