

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

**CR No.8508 of 2017**

**Date of decision: 06.12.2017**

**Jatinderpal Singh**

**....Petitioner**

**V/S**

**Kashmiri Lal & ors.**

**.....Respondents**

**CORAM: HON'BLE MR. JUSTICE B.S. WALIA**

Present : Mr. Maneesh Kumar Bali, Advocate for the petitioner.

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**B.S WALIA, J. (Oral)**

1. Challenge in the revision petition under Article 227 of the Constitution of India is to order dated 13.10.2017 (Annexure P-1) passed by the learned Civil Judge (Junior Division), Phillaur, vide which the evidence of the plaintiff-petitioner was closed.
2. Learned counsel contends that the petitioner had moved an application on 05.07.2017 for comparison of the handwriting of defendant -respondent No.2 whereupon notice was issued on the same for 20.7.2017, on which date, the application for comparison of handwriting of defendant-respondent No.2 i.e. Gulshan Kumar was allowed by the learned trial Court by categorically observing that opportunity was required to be given to the plaintiff-petitioner to prove his version. On the next date i.e. 3.8.2017, defendant-respondent No.2 did not appear whereupon the case was adjourned to 10.8.2017. On the said date, defendant-respondent No.2 Gulshan Kumar again did not appear and the case was adjourned to 30.8.2017 on which date again case was adjourned.

3. Learned counsel contends that in the circumstances, particularly when the learned trial Court in its order dated 20.7.2017 had categorically observed that an opportunity was required to be given to the plaintiff-petitioner to prove his version by examining the Handwriting and Fingerprint Expert and since only two adjournments had been taken, that too on account of inability of Handwriting Expert to appear before the learned trial Court due to involvement before other courts as also in a marriage function and that too in the background of having presented the report through counsel though the same was not taken on record, then in that eventuality, the order passed by the learned trial Court closing the evidence of the plaintiff denying him the right to examine the Handwriting Expert was unduly harsh and at best one short adjournment could have been granted subject to payment of costs. Learned counsel prays for grant of one effective opportunity to examine the Handwriting Expert on such terms as to costs as deemed appropriate by this Court.

4. Learned counsel contends that even on 30.08.2017, defendant-respondent No.2 i.e. Gulshan Kumar did not appear for giving his specimen of handwriting for comparison and gave the same only on 11.09.2017 whereupon the matter was, adjourned to 03.10.2017. In the meantime, on 24.09.2017, the Handwriting and Fingerprint Expert i.e. Shri Arvind Sud prepared and submitted report before the learned trial Court on 03.10.2017 but the same was not taken on record as the Handwriting Expert Shri Arvind Sud was not present in person. However, counsel for the plaintiff-petitioner suffered an undertaking to produce the evidence of the plaintiff on the next date of hearing failing which the same may be closed by order. Thereupon the case was adjourned to 11.10.2017 for evidence of the plaintiff-petitioner subject to last opportunity. However, on

11.10.2017, Shri Arvind Sud, Handwriting Expert, could not appear as he was busy and after Court hours, counsel for the plaintiff-petitioner received a letter from Shri Arvind Sud, Handwriting Expert, expressing inability to attend the Court from 13.10.2017 to 16.10.2017 on account of involvement in a marriage function. The case was adjourned to 13.10.2017. Accordingly, the plaintiff-petitioner moved an application for adjournment along with written request of Shri Arvind Sud but the learned trial Court did not deem it appropriate to adjourn the case and passed the impugned order closing evidence of the plaintiff-petitioner by order and adjourning the case to 30.10.2017 for defendants' evidence.

5. Learned counsel contends that defendant-respondent No.2 Gulshan Kumar, gave his specimen handwriting for comparison only on 11.09.2017 and thereafter, only two adjournments were sought by the plaintiff-petitioners and that too on account of the handwriting Expert being busy in other Courts as well as in a marriage function. Learned counsel states that the bona fide of the plaintiff-petitioner as well as the Handwriting Expert Shri Arvind Sud was evident from the fact that although the specimen handwriting sample was given by PW-2 on 11.09.2017 and the case was adjourned to 03.10.2017 for the report of the Handwriting Expert, the handwriting and Fingerprint Expert namely, Shri Arvind Sud prepared and submitted the report on 24.9.2017 but the same was not taken on record on 03.10.2017 due to absence of the Handwriting Expert.

6. I have considered the submissions made by learned counsel for the petitioner and feel that the ends of justice would be met by granting one effective opportunity to the plaintiff-petitioner to examine the Handwriting Expert to prove the report as has already been prepared and which could not be taken on

record on 03.10.2017 on account of absence of the Handwriting Expert.

7. In the circumstances, without issuing notice to the other side in order to avoid delay as also incurring of expenses by the defendant-respondents in having to engage counsel, I deem it appropriate in order to meet the ends of justice to grant one effective opportunity to the plaintiff-petitioner to examine the Handwriting Expert, namely, Shri Arvind Sud to place on record and to prove the report with regard to comparison of the handwriting and fingerprints of defendant-respondent No.2, namely, Gulshan Kumar on a date to be granted by the learned trial Court subject to payment of ₹10,000/- as costs.

8. Accordingly, impugned order dated 13.10.2017 is set aside. Learned trial Court is directed to grant one effective opportunity to the plaintiff-petitioner to examine Handwriting Expert Shri Arvind Sud at his own risk and responsibility to produce and to prove the report subject to payment of ₹10,000/- as costs to the defendant-respondents by way of demand draft in their favour.

9. Revision petition allowed in aforementioned terms.

**December 06, 2017**  
**ps**

**(B.S. WALIA)**  
**JUDGE**

Whether speaking/reasoned : Yes/No.

Whether reportable : Yes/No.