

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

**CR No.1410 of 2018 (O&M)
Date of Decision: May 01, 2018**

Maan Singh

...Petitioner

Versus

Patta Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. P.S. Jammu, Advocate
for the petitioner.

FATEH DEEP SINGH, J.

Through this civil revision petition the petitioner-Maan Singh has sought to challenge orders dated 08.01.2018 passed by the Court of learned Civil Judge, (Junior Division), Dabwali, District Sirsa, whereby, application moved by him for summoning Fingerprint and Handwriting Expert for comparing signatures of defendant Fatta Singh and witnesses Gurdev Singh and Harbhajan Singh on agreement to sell dated 22.3.2012 stood dismissed.

Upon hearing learned counsel for the petitioner and perusing the records of the case. Right at the inception of the suit it was the stand that on the agreement to sell dated 22.3.2012 the defendant as well as witnesses denied their signatures on this document and after trial when the case was at rebuttal stage the present application has come about. The petitioner was fully aware of the stand of the defendant of total denial and thus it was incumbent upon him to have brought in his evidence what he deemed appropriate to undo the case of the defendant. Since it was for the plaintiff to have proved the same by affirmative evidence, who never

bothered to do so throughout the trial and has remained in oblivion to this material issue for which evidence was supposed to be led, if so necessitated and had closed his evidence in affirmative. The defendant has also closed his evidence and matter was listed for rebuttal evidence when it is the own stand of the petitioner that there is no issue of rebuttal, thus, the question of examining the expert at this juncture is certainly highly uncalled for. Since it is the plaintiff who has set up an agreement to sell the onus lay heavily upon him to have proved the same to the satisfaction of the Court. Rather what reflecting from his conduct is lack of due diligence and gross negligence on his part and at this belated stage when the suit is at the stage of disposal has come with an idea to unduly prolong the matter by such a plea and, therefore, cannot be allowed to take undue benefit of his own wrong. The Court below has rightly held that it was for the plaintiff to have led evidence at the initial stage when he was fully aware of the case of the other side and rather application is certainly with a view to prolong the matter.

In the light of the same, there is no illegality or perversity in the findings so recorded by the Court below which needs to be upheld. Thus, the present revision petition being hopelessly without any merits stands dismissed in limine.

(FATEH DEEP SINGH)
JUDGE

May 01, 2018
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No