

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

CR No.7259 of 2018

Date of Decision: November 01, 2018

Mahesh Kumar

..... Petitioner

Versus

Bansi Lal & Ors.

.... Respondents

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. Harjot Singh Bedi, Advocate for the Petitioner.

SUDIP AHLUWALIA, J.

This Revisional Application is directed against the Order passed by Ld. Addl. Civil Judge (Senior Division), Ferozepur Jhirka in Civil Suit No.166 of 2010.

2. Vide the impugned Order, the Ld. Trial Court had rejected an Application of the Petitioner for granting him permission to adduce additional evidence in the shape of Finger Print Expert for comparison of the handwriting in the summons with his alleged signature on the disputed Agreement of Sale relied upon by the Respondents/Plaintiffs.

3. After considering the objections raised on behalf of Respondents and hearing the submissions of both sides, the Ld. Court below had rejected the Petitioner's application with the following observations -

“The application for additional evidence cannot be allowed only on the assumption of a party that some material evidence would emerged. The applicant has alleged in the application that some

*impartial report is required on file but at the same time it has been overlooked by the applicant that the applicant has already relied upon a report of an Expert, which is liable to be evaluated. Moreover, when the applicant has already led evidence on the non-existence of his signatures on the agreement in question, the similar evidence without any justification cannot be allowed. Had the applicant applied for the same at the time of his affirmative evidence, the position must have been different and in such case he had every right to examine as many as number of Experts but when he had already led the evidence, the additional evidence cannot be adduced as a matter of right. If such application for leading more evidence on the same facts is allowed, there would be no end of the process of evidence. It has been held by **Hon'ble Punjab and Haryana High Court in Nanda Vs. Kamlesh and others 2012(5) RCR Civil 699** that petitioner was having full opportunity to produce witnesses at relevant time. Pleas raised by the petitioner subsequently, had not been raised in his written statement and allowing additional evidence to be produced at the stage of rebuttal and arguments will amount to reopening. The trial and de-novo proceeding will be stated and there will be no end to the litigation. In that case also the request as declined.”*

4. On considering the available material on record and after having heard the Ld. counsel for Petitioner, this Court is of the view that the impugned order passed by the Ld. Court below calls for no interference.

5. It needs to be remembered that the basic controversy pertains to genuineness of the Petitioner's/defendants' signatures on the disputed Agreement for Sale. For that purpose, what actually would matter would be an appropriate report by the Expert regarding matching of the questioned signature on the Sale Agreement with an admitted signature of the Petitioner. Clearly, the burden of proof to establish that such signature

would lie on the Plaintiffs/respondents, and if the same is achieved in any measure, the petitioner is at liberty to rebut the same by way of an appropriate Expert's report to the contrary, which two stages already appear to have been covered during the course of trial. In the given circumstances, comparison of the disputed signature alongwith the Handwriting on the summons appropriately sent to the Petitioner would appear to be uncalled for and unnecessary, since in any case, the specific identity of the person filling up Summons Form is not known.

6. This Court therefore, finds no impropriety in the impugned Order passed by the Ld. Trial Court and is in agreement with the observation that permitting this kind of application for comparison of the disputed signature with that of some Handwriting whose author itself is not known would result in a virtually unending sequence of additional evidence and counter evidence not exactly relevant to the real dispute.

7. The Revisional Application is thus dismissed.

(SUDIP AHLUWALIA)
JUDGE

November 01, 2018
AS

- | | |
|--------------------------------|--------|
| 1. Whether speaking/reasoned ? | Yes/No |
| 2. Whether reportable ? | Yes/No |