

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

CR No.11696-2018 (O&M)

Date of decision : 01.01.2019

Pardeep Kumar

..... Petitioner

Versus

Krishan Kumar and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Deepak Jindal, Advocate for the petitioner.
Mr.Chetan Goel, Advocate for respondent No.1.

KULDIP SINGH J. (ORAL)

Heard.

Petitioner has impugned the order dated 17.11.2018 (Annexure P-7), passed by learned Civil Judge, Junior Division, Chandigarh, vide which, an application filed by the plaintiff for seeking permission to examine handwriting expert and to obtain the photographs and other relevant documents through rebuttal evidence, was declined.

At the motion stage, contesting respondent No.1 has appeared through his counsel. Examination of the file shows that the plaintiff has filed a suit for specific performance of the agreement to sell dated 08.05.2008/12.05.2008. Perusal of the issues reproduced in the petition shows that an issue was framed whether the plaintiff is entitled to relief for specific performance of agreement to sell dated 08.05.2008/12.05.2008. Out of the other issues, the burden of proof of two issues was on respondent No.2 which are of formal nature and did not require any evidence. Subsequently, additional issues were framed regarding limitation and non-joinder of necessary parties and burden of the same was on the defendant. The plea of

learned counsel for the petitioner is that the defendant has in the written statement has admitted his signatures on the agreement but he claims that it was on blank paper and the agreement was typed later on. Plaintiff has already examined the attesting witnesses and the scribe to prove the agreement. It is further contended that during his evidence, the defendant lead the evidence of expert to allege and prove that the writing was created on a blank document. The plaintiff cross-examined the said expert by engaging another expert. Now after the same, plaintiff want to lead the evidence in rebuttal and want to examine his own expert. Learned counsel also relies upon the judgment of this Court in case of *Pawan Kumar vs. Surinder Pal and another 2010 (8) RCR (Civil) 1958.*

I am of the view that in this case, the defendant has admitted his signatures. His only plea is that the agreement was typed later on. The expert has been examined to claim that the agreement was typed later on. The expert has been cross-examined by another expert. There is no issue on which the plaintiff can lead rebuttal evidence of an expert. The evidence of the expert is to be assessed by the Court. There could be other attending circumstances also to see whether the agreement was typed on blank paper or not. Therefore, evidence of an expert in this case will be of no help. The evidence in rebuttal is therefore superfluous, un-necessary as well as not required. There is no illegality in the impugned order dated 17.11.2018 (Annexure P-7), passed by learned Civil Judge, Junior Division, Chandigarh.

Accordingly, present revision is dismissed.

(KULDIP SINGH)
JUDGE

01.01.2019
anju rani

Whether speaking / reasoned
Whether Reportable:

Yes
No