

**In the High Court of Punjab and Haryana, at Chandigarh**

**Civil Revision No. 1751 of 2018**

**Date of Decision: 08.09.2022**

Balwant Singh

... Petitioner(s)

Versus

Balkar Singh and Others

... Respondent(s)

**CORAM: Hon'ble Mr. Justice Anil Kshetarpal.**

Present: Mr. Pankaj Bali, Advocate  
for Mr. Deepak Sharma, Advocate  
for the petitioner(s).

Mr. J.S.Cooner, Advocate  
for the respondent No.1 and 3 to 6.

Mr. Himanshu Sharma, Advocate  
for the respondent No.2.

**Anil Kshetarpal, J.**

1. The petitioner herein is a plaintiff in a suit for declaration to the effect that the judgment and decree dated 07.04.1980, passed in Civil Suit No. 6 of 1980, titled as “Balkar Singh etc. v. Balwant Singh” and the subsequent sale deeds executed by the defendants are illegal, wrong, null and void and not binding on the rights of the plaintiff.

2. Basically, the plaintiff claims that the aforesaid judgment and decree has been obtained by playing fraud upon him and the Court. During the pendency of the suit, the plaintiff has examined the Handwriting and Fingerprint Expert to prove that he never appeared and put his signatures on the consent decree. The Handwriting and Fingerprint Expert gave his report. However, record of the civil suit could not be produced. Hence, the plaintiff has filed an application for permission to lead additional evidence alleging that initially, when he summoned the record, the official appeared and stated that the same could not be traced out. It was asserted that now the record

has been traced out and the plaintiff should be permitted to produce the same in additional evidence and re-examine the Handwriting and Fingerprint Expert.

3. The trial Court has dismissed the application while giving the following reasons:-

*“Therefore, it is not understandable as to why the plaintiff wants to examine the same expert in the presence of original file as additional evidence and same appears to be nothing but an abuse of process of law and same cannot be permitted. Also, the earlier applications of the plaintiff for the additional evidence and application for leading evidence in rebuttal have already been dismissed.”*

4. It is well settled that rules of procedure are handmade of justice. These procedures have been provided in order to advance the cause of justice. Once the plaintiff has claimed that the aforesaid judgment and decree is a result of fraud, he has to be given an opportunity to prove that fact. The facts of the case prove that earlier, the plaintiff has also made an attempt to summon the record of Civil Suit No. 6 of 1980. Hence, the view taken by the trial Court is myopic.

5. Keeping in view the aforesaid facts, the present revision petition is allowed and the order, under challenge is set aside. Let the petitioner summon the record and re-examine the Handwriting and Fingerprint Expert.

**(Anil Kshetarpal)**  
**Judge**

**September 08, 2022**

**“DK”**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No