

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

CR-5242-2017 (O&M)

Date of decision: 29.08.2022

Chandigarh Sports Council, Sports Complex, Chandigarh

....Petitioner

Versus

Sandeep Sharma

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. K.K.Gupta, Advocate for the petitioner
 Mr. Bipan Sharma, Advocate for the respondent

ANIL KSHETARPAL, J (Oral)

An application filed by the Chandigarh Sports Complex, for permission to examine handwriting and finger print expert, during the pendency of its recovery suit, was allowed on 15.03.2017, while permitting handwriting and finger print expert to take photographs of such documents alongwith other documents available on the file. On 15.05.2017, the following order was passed:-

“Today, the case was fixed for additional evidence of the plaintiff being last opportunity with the clear direction vide order dated 20.04.2017 that in case evidence on behalf of the plaintiff is not present on the next date of hearing, the evidence shall be deemed to have been closed. The handwriting expert on behalf of the plaintiff is present and summoned record has been received. It is stated by the Ld. Counsel for plaintiff that the defendant be called in court for the purpose of giving specimen handwriting. Accordingly, the case is adjourned to 16.05.2017. Last opportunity for evidence of the plaintiff shall remain intact in terms of the order dated 20.04.2017.

On 16th i.e the next day, the court refused to grant

adjournment while closing opportunity to the plaintiff to lead additional evidence. The order passed on 16.05.2017 is extracted as under:-

“The case is fixed for additional evidence of plaintiff being last opportunity. However, today the expert witness has once again failed to come present and Sh. Ashwani Kumar appearing for the plaintiff submits that the expert is medically unfit to depose. The request is clearly unjustified and there is no medical slip/prescription to show that the expert is unfit to appear. In view of the peremptory order passed on the last date of hearing, the additional evidence of plaintiff is hereby closed by order.

Now to come up on 24.05.2017 for rebuttal evidence and arguments.”

Heard the learned counsel representing the parties at length and with their able assistance perused the paperbook. On the one hand, learned counsel representing the petitioner (the plaintiff) contends that the petitioner has been penalized for the absence of the handwriting and finger print expert on 16.05.2017 even though, he was present on 15.05.2017.

On the other hand, learned counsel representing the respondent contends that on 15.05.2017, the respondent was present, although, his presence was not marked.

The correctness of the record as well as the orders passed by the court cannot be doubted in the manner as alleged above. On a careful reading of the order dated 15.05.2017, it is evident that the court called the defendant for giving a specimen of his handwriting on 16.05.2017. On 15.05.2017, the handwriting and finger print expert on behalf of the plaintiff was present. In view thereof, the order dated

16.05.2017 is set aside. Let the defendant appear before the trial court on 29.09.2022. The trial court shall proceed with the matter in accordance with law.

Disposed of.

All the pending miscellaneous applications, if any, are also disposed of.

29.08.2022

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE