

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 750 of 2021

Date of Decision: 29.09.2022

Raghubir

... Petitioner(s)

Versus

Jagdish

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Gurjot Singh Sadhrao, Advocate
for the petitioner(s).

Mr. Sunny Namdev, Advocate
for the respondent.

Anil Kshetarpal, J.

1. The petitioner herein is the defendant No.1 in the plaintiff's suit for possession by way of specific performance of the agreement to sell. The alleged agreement to sell was executed between the parties on 18.05.2013 which was signed by the two marginal witnesses including Sh.Rajesh.

2. The defendant No.1 has examined Sh.Rajesh as DW.3. He denied his signatures on the agreement to sell. Thus, on the application filed by the plaintiff, the trial Court has directed Sh.Rajesh to give his specimen signatures in the Court in order to enable the plaintiff to get the same examined from the Handwriting and Fingerprint Expert. The correctness of the aforesaid order directing Sh.Rajesh to give his specimen signatures has been assailed by the defendant No.1.

3. Heard the learned counsel representing the parties, at length and

with their able assistance, perused the paper-book.

4. The learned counsel representing the petitioner (defendant No.1) submits that at the stage of the rebuttal evidence and arguments, the plaintiff could not be permitted to examine the Handwriting and Fingerprint Expert, unless there is an issue, the onus to prove the same lies on him. He relies upon the two different Division Bench judgments passed in *Surjit Singh and Others v. Jagtar Singh and Others 2007(1) RCR (Civil) 537* and *Jagdev Singh and Others v. Darshan Singh and Others 2007(1) RCR (Civil) 794*.

5. In the present case, the Court, after noticing the peculiar facts, has permitted the plaintiff to examine the Handwriting and Fingerprint Expert particularly when Sh.Rajesh, for the first time while appearing as DW.3, has denied his signatures on the alleged agreement to sell.

6. It is well settled that the rules of procedure are the handmaid of justice. The plaintiff could not apprehend while leading his evidence that the defendant would examine Sh. Rajesh as their witness and he would deny his signatures on the agreement to sell. Hence, the application has been filed promptly by the plaintiff.

7. Keeping in view the aforesaid facts, no ground is made out to interfere. Hence, the present revision petition is dismissed.

(Anil Kshetarpal)
Judge

September 29, 2022
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No