

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

135

CR-1760-2020

Date of decision: 23.08.2022

AMANPREET KAUR AND ANOTHER

..Petitioners

Versus

ANGREJ SINGH

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Amit Arora, Advocate
for the petitioners.

Mr. Vikas Gupta, Advocate
for respondent.

ANIL KSHETARPAL, J(Oral)

The petitioners were proceeded ex parte in a suit for recovery of Rs.24,93,150/- on the basis of the agreement to sell dated 12.07.2011. Subsequently, the trial Court passed a decree of amount along with interest on 04.04.2016. The petitioners filed an application under Order 9 Rule 13 CPC for setting aside ex parte decree and judgment dated 04.04.2016. In the aforesaid proceedings, the Court framed issues. When the case was fixed for the petitioners' evidence, they filed an application for permission to examine handwriting and fingerprint expert for comparison of petitioners signatures on the summons allegedly received by them. The petitioners claim that the aforesaid summons were never tendered to the petitioners and their signatures are forged.

The trial Court has refused to permit the petitioners to examine handwriting and fingerprint expert while observing as under:-

“I have heard the learned counsel for the parties. Record perused. After considering the reply to this application as well as pleadings of the parties, I have not found any necessity to examine the handwriting/fingerprint of Amanpreet Kaur by an expert at this stage as perusal of

the notice/summon shows that the same was also witnessed by Chowkidar concerned namely Mahinder Singh and process served. Evidence of fingerprint/handwriting expert is required when there is no option left for a party to prove his version. The present case is at the stage of evidence of applicant and applicant can examine the above said witnesses to prove her case. In view of the above discussion, application stands dismissed. Now to come upon 13.02.2020 for AWs.”

Once, it is the case of the petitioners that the report of service of the summons has been manipulated by the plaintiff and the summons were never served on them and they have not signed the same, the petitioners are entitled to lead evidence to substantiate the aforesaid facts. In such circumstances, the Court can refuse permission only if such evidence is not relevant. In absence thereof, the Court cannot refuse permission to the party to lead relevant evidence. In the present case, the Court has not recorded any such finding.

Keeping in view the aforesaid facts, the order dated 05.02.2020, is set aside.

The petitioners are granted an opportunity to examine handwriting and fingerprint expert to prove their case.

The parties through their counsel are directed to appear before the trial Court on 21.09.2022.

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

August 23rd, 2022

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**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*