

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

CR-3487-2019 (O&M)

Date of decision: 01.06.2022

Himan Nagpal

....Petitioner

Versus

Smt. Jaspal Kaur and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. B.D.Sharma, Advocate for the petitioner
 Mr.Shivam Malhotra, Advocate for respondent no.2 to 4

ANIL KSHETARPAL, J (Oral)

The petitioner has filed an application for examining a handwriting and fingerprint expert in a pending suit, for grant of decree for possession by way of the specific performance of the agreement to sell dated 26 September, 2013. The plaintiff has been denied the right to lead rebuttal evidence in order to examine the handwriting and fingerprint expert. The suit was filed claiming that Navdeep Singh, predecessor in interest of the defendants entered into the agreement to sell. On appreciation of the pleadings, the following issues were framed:-

“1) Whether Navdeep Singh entered into
an agreement to sell dated 26.09.2013 with plaintiff ?
OPD

2) Whether Navdeep Singh received
earnest money from the plaintiff? If so, to what
extent? OPP

3) Whether the plaintiff has been ready
and willing to perform his part of the agreement? OPP

4) Whether the plaintiff is entitled to the

relief of specific performance of the agreement to sell dated 26.09.2013 ? OPP

5) Whether the plaintiff is entitled to get the relief of permanent injunction as prayed for ? OPP

6) In the alternative, whether the plaintiff is entitled to recovery of Rs. 16,50,000/- along with interest as prayed for ? OPP

7) Whether Navdeep singh entered into an agreement to sell dated 20.02.2014 with Karamjit Kaur Thamba and Kamaljit Singh Thamba ? If so , its effect ? OPD

8) Whether the suit of the plaintiff is not maintainable ? OPD

9) Whether the plaintiff has concealed true and material facts ? OPD

10) Relief .”

The trial court has denied the right to lead rebuttal evidence on the ground that the plaintiff can be permitted to lead rebuttal evidence only with respect to those issues onus whereof was on the defendant. It is evident that onus to prove issue no.1 is on the defendant. Therefore, the plaintiff has right to lead the rebuttal evidence. This aspect has been settled by two Division Benches of this Court in **Surjit Singh and others vs. Jagtar Singh and others'** 2007 (1) RCR (Civil) 537 and **'Jagdev Singh and others vs. Darshan Singh and others'** 2007 (1) RCR (Civil) 794.

Keeping in view the aforesaid facts, order under challenge is set aside. The trial court is directed to permit the plaintiff to examine handwriting and fingerprint expert in order to prove the signatures of Navdeep Singh.

The revision petition stands allowed.

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

01.06.2022

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE