

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

CR No.2432 of 2021 (O&M)

DATE OF DECISION : 09.03.2022

Baldev Singh

.....Petitioner

versus

Harpreet Singh

.....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Kanwaljeet Singh, Advocate for the petitioner

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ALKA SARIN, J. (Oral):

Heard in virtual mode.

CM-2426-CII-2022:

This is an application for preponing the date of hearing in the main case from 04.05.2022 to an early date.

For the reasons stated in the application and with the consent of the learned counsel, the main case is taken on board today itself.

CM disposed off.

CM-2429-CII-2022:

CM allowed subject to all just exceptions and agreement dated 02.12.2010 is permitted to be taken on record as Annexure P-7.

CM-2428-CII-2022 &
CR No.2432 of 2021:

This is a Civil Revision under Article 227 of the Constitution of India for setting aside the impugned order dated 05.12.2017 (Annexure P-6) passed by the Civil Judge (Junior Division), Ludhiana vide which the application filed by the petitioner for allowing him to engage a document and handwriting expert for comparing the signatures upon the plaint, special power of attorneys, affidavits, power of attorney, two statements, affidavits and applications, Ghosna Pattar regarding marking the presence before the Tehsildar, etc. was dismissed. Hence, the present revision petition.

The brief facts relevant to the present *lis* are that the parties entered into an agreement to sell dated 02.12.2010 which was executed by the petitioner in favour of the respondent for sale of his land measuring 17 kanals 5 marlas. The petitioner herein filed a suit for declaration titled: *Baldev Singh vs. Harpreet Singh* to the effect that the agreement dated 02.12.2010 stood rescinded/cancelled and the amount of earnest money paid by the respondent to the petitioner herein stood forfeited due to the failure of the respondent to perform his part of the sale agreement. Simultaneously, a suit was filed by the respondent for specific performance of the agreement to sell dated 02.12.2010. The two suits were consolidated. The petitioner herein, on 29.08.2017, moved the application to engage a document and handwriting expert for comparing the signatures upon the plaint, special power of attorneys, affidavits, power of attorney, two statements, affidavits and applications, Ghosna Pattar regarding marking the presence before the Tehsildar, etc.

The said application was dismissed vide order dated 05.12.2017 and the matter was fixed for evidence of the plaintiff. The present revision petition challenging the said order dated 05.12.2017 was filed on 11.10.2021.

Learned counsel for the petitioner would contend that the entire case of the petitioner hinges on the examination of the document and handwriting expert in as much as the signatures of Harpreet Singh on the documents are forged in connivance with Netar Singh. It is further the contention that the signatures upon the plaint, application, affidavit and other documents attached with the plaint are different from one another and are not one and the same.

In the present case, the petitioner had filed his written statement. The said plea that the signatures are forged on the plaint, etc. was never raised in the written statement. Rather, the stand taken was that the petitioner herein had himself filed a suit that the agreement to sell dated 02.12.2010 executed by the petitioner in favour of the respondent stood rescinded and the amount paid stood forfeited due to the failure of the respondent to perform his part of the sale agreement. The application Annexure P/5 reveals that the ground taken in the application is that one Netar Singh had forged the signatures of the respondent and that the said Netar Singh alleged himself to be the power of attorney of the respondent

and further that the respondent had in connivance with the said Netar Singh made a false statement in the Court on 30.10.2015 that the signatures on the power of attorney were his. The said application was dismissed by the Court below holding that the application is completely irrelevant with regard to the dispute in hand in as much as it was for the respondent Harpreet Singh to have objected, if at all, and challenged had it been the case that his signatures had been forged. Rather, the respondent himself has filed a suit for specific performance and the other suit filed by the petitioner himself for declaration that agreement stands rescinded. This fact itself would show that the agreement was an admitted document. Learned counsel for the petitioner has not been able to point out from the written statement whether any such plea was raised in the written statement. Further, there are no answers forthcoming regarding the long silence from the date of passing of the order dated 05.12.2017 till 11.10.2021 i.e the date of filing of the present petition. The learned counsel tried to explain the long silence on the ground that the petitioner was an old man and he had subsequently expired. However, to a pointed query by the Court as to when the said Baldev Singh died the counsel, on instructions, stated that Baldev Singh died in the year 2021. From the orders accessed from the website of the Trial Court it has also come to the notice that the evidence of the plaintiff was closed as far back as on 16.02.2018.

Keeping in view the totality of facts and circumstances of the case, I find no illegality or infirmity in the order impugned in the present

revision petition, which is without any merits, and is accordingly dismissed.

(ALKA SARIN)
JUDGE

09.03.2022
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<u>NOTE:</u> Whether speaking/non-speaking: Speaking Whether reportable: YES/NO
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