

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

115

CR-3675-2022

Date of decision: 06.09.2022

Rajiv Goyal

.....Petitioner

Versus

Anil Kumar

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Vinod Bhardwaj, Advocate for the petitioner.

MANJARI NEHRU KAUL, J. (ORAL)

The instant revision petition has been filed under Article 227 of the Constitution of India for setting aside of the order dated 08.08.2022 (Annexure P-7) passed by learned Additional Civil Judge (Sr.Divn.), Kaithal in Civil Suit No.CS/485/2017 /RBT/148/2022 dated 27.03.2017 titled as 'Rajiv Goyal Vs. Anil Kumar' vide which an application filed by the petitioner/plaintiff to examine the hand writing expert and finger print expert in rebuttal evidence was dismissed.

Learned counsel for the petitioner submits that the Trial Court while passing the impugned order failed to appreciate that the respondent in his written statement had not denied his signatures on the cash/credit memos (Ex.P-1 and P-2), however, while stepping into the witness box as DW-1, in his examination-in-chief when he tendered his affidavit (Ex.DW-1/A), he took a self-contradictory stand and denied his signatures on Ex.P-1 and P-2.

Learned counsel submits that such denial during his examination-in-chief was beyond the pleadings of the respondent. The said averments introduced by him at the stage of defendant's evidence, had greatly prejudiced the petitioner as he had been unable to controvert the same at the time of his affirmative evidence. Learned

counsel thus submits that in the above facts and circumstances in order to prove the signatures of the respondent/defendant on the cash/credit memos (Ex.P-1 and P-2), examination of the hand writing and finger print expert would be necessary.

I have heard learned counsel and perused the relevant material placed on record.

It would be relevant to point out here that the petitioner has taken a self-contradictory stand even before this Court. On the one hand it has been submitted that the denial of signatures in the examination-in-chief by the respondent is inadmissible, being beyond his pleadings, however, on the other hand the petitioner/plaintiff is wanting to examine hand writing and finger print expert to prove the signatures of the respondent on Ex.P1 and P-2.

This Court fails to comprehend as to why the petitioner/plaintiff would want to controvert something which as per his own submissions is inadmissible being beyond pleadings.

The Trial Court has rightly observed that it would be a futile exercise to examine hand writing and finger print expert in rebuttal evidence and would not in any manner assist in the adjudication of the case.

The impugned order does not warrant any interference. Accordingly, the instant revision petition being devoid of any merit is dismissed in *limine*.

06.09.2022

(MANJARI NEHRU KAUL)

Vinay

JUDGE

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