

113 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-104-2022
Date of Decision: 01.02.2022

SATYA NARAYAN SHARMA

....Petitioner

Versus

RAKESH AGGARWAL AND ANOTHER

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Abhilaksh Grover, Advocate
for the petitioner.

(Presence marked through video conference).

ARUN MONGA, J. (ORAL)

Revision petition herein is directed against the impugned order dated 02.11.2021 (Annexure P-1) passed by learned Court below in the pending trial in Civil Suit No.18217 of 2014, whereby, the application moved by the plaintiff/petitioner for examining fingerprint and handwriting expert in rebuttal has been dismissed.

2. Learned counsel for the petitioner submits that the petitioner entered into an agreement of sale with respondent No.1 on 09.09.2011. Respondent no.1 was in possession of the suit property by virtue of an agreement to sell with respondent No.2. Respondent no.1, being General Power of Attorney holder of respondent No.2, was competent to hand over the possession to the petitioner by receiving full and final payment. Learned counsel further submits that even after paying the earnest money by the petitioner, the sale deed was not executed in his favour. Respondent No.2 took a U turn and denied execution of any Agreement to Sale, GPA and Possession letter in favour of respondent No.1. Thereafter, the petitioner moved an

application before the trial Court seeking comparison of respondent No.2-defendant's signature but the same was dismissed by the trial Court on the ground that the case is at the stage of rebuttal evidence.

3. I have heard learned counsel for the petitioner and perused the case file.

4. Rules of procedure are handmaids of justice and cannot be allowed to thwart real and substantial justice between the parties. According to learned counsel, no prejudice would be caused to the respondents if the petitioner is permitted one opportunity to examine the hand writing expert.

5. Given the nature of order being passed, there is no necessity to issue notice to the respondents as no prejudice would be caused to them. Notice to the respondents is dispensed with.

6. What seems to have, inter alia, weighed with the court below is the likely delay that would be caused in the trial and the stage at which permission to examine the expert has been asked by the plaintiff. As regards delay, it is the petitioner's own suit and delay in trial is to his own peril. Though the plaintiff ought to have, in ordinary course, examined the hand writing expert in his affirmative evidence, but since the very lis is denial of signatures/execution of the agreement in question, therefore, it would be in the interest of justice that expert opinion is sought even at this stage of rebuttal evidence. I deem it appropriate to grant just one opportunity to the petitioner to examine the handwriting and fingerprint expert, subject to payment of costs.

7. In the premise, the instant revision petition is allowed. Impugned order dated 02.11.2021 (Annexure P-1) is set aside and subject to payment of Rs.25,000/- as costs, petitioner shall be given one opportunity to examine the

handwriting and fingerprint expert. However, it is made clear that in case the petitioner fails to examine the said expert on the date given by the trial Court, no further time shall be granted and the Court below shall proceed in accordance with law.

February 01, 2022
gurpreet

(ARUN MONGA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No