

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

**CR No.6543 of 2019 (O&M)  
Date of decision: 25.08.2022**

**Ramji Lal**

**..... Petitioner**

**Versus**

**Dhanna Ram and others**

**..... Respondents**

**CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA**

Present: Mr. B. K. Bagri, Advocate  
for the petitioner.

Mr. Kshitij Bharati, Advocate  
for the respondents.

**TRIBHUVAN DAHIYA J.**

This revision petition has been filed under Article 227 of the Constitution of India for setting aside the order dated 04.10.2019 (Annexure P-6) passed by the Civil Judge (Junior Division), Bawal, dismissing the petitioner/plaintiff's application for additional evidence. At the time of issuing notice of motion to the respondents on 17.10.2019, passing of final order by the trial Court was stayed.

2. In the facts of the case, the petitioner/plaintiff had moved an application for additional evidence dated 27.08.2019 (Annexure P-2) to produce a report of handwriting expert, Vijay Kumar Rustogi, dated 20.06.2019, and for his evidence. The plaintiff's evidence was closed on 30.01.2019 and thereafter, the respondents/defendants closed their evidence on 11.07.2019.

3. The application for additional evidence was filed subsequently and the same was opposed by the respondents-defendants

on the ground that the plaintiff was required to examine the expert in his evidence, which he failed to do. The trial Court dismissed the application for additional evidence, vide order dated 04.10.2019, on the ground that the application was filed at the stage of rebuttal and arguments, and, therefore, was not required to be entertained. It was also observed that the basis of taking permission to tender the expert report pleaded by the applicant was wholly unreliable and unacceptable.

4. It has been argued by learned counsel for the petitioner that the petitioner is a senior citizen of about 70 years of age. Due to old age, he could not produce the expert report at the time of leading plaintiffs' evidence. Besides, expert evidence of respondents-defendants, i.e., DW-5 has already been examined. Therefore, tendering of expert report along with the photographs by the plaintiffs is necessary.

5. The plea has been opposed by learned counsel for the respondents on the ground that the petitioner/plaintiff was negligent in leading evidence at the relevant time, and cannot be allowed to do so at this stage.

6. The impugned order dismissing the petitioner's application for additional evidence has been passed without taking all the relevant facts into consideration. The petitioner/plaintiff has filed a suit for specific performance on the basis of an agreement to sell dated 26.02.2014 entered into with respondents-defendants No.1 to 5 regarding land measuring 01 kanal 07 marlas at the rate of Rs.70.00 lacs per acre. He had paid an amount of Rs.13.75 lacs at the time of agreement, which was duly attested by a public notary. The

report sought to be proved on record by the handwriting expert is regarding disputed writings on the agreement in question. Besides, a perusal of the order dated 01.04.2019 (Annexure P-5) reveals that the trial Court earlier allowed the defendants' application for taking specimen of handwriting of the petitioner/plaintiff. Thereafter, the application in question was filed which is bona fide. In this background, there is no doubt that production of additional evidence by the petitioner will assist the Court in rendering complete justice. The trial Court failed to consider this aspect of the matter in dismissing the application for additional evidence.

7. Therefore, in the facts peculiar to this case, the application for additional evidence dated 27.08.2019 (Annexure P-2) is allowed and the petitioner/plaintiff is permitted to lead evidence to produce handwriting expert Vijay Kumar Rastogi's report dated 20.06.2019 alongwith photographs, and examine him on one date to be fixed by the trial Court, subject to payment of Rs.10,000/- as costs to the respondents-defendants. No further adjournment for the purpose shall be granted.

**25.08.2022**

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Whether speaking/reasoned:

Whether reportable:

**(TRIBHUVAN DAHIYA)**  
**JUDGE**

Yes/No

Yes/No