

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-7099-2019 (O&M)
Date of decision: 22.08.2022

Amit Lamba

....Petitioner

Vs.

Sunder Lal and another

....Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Kulvir Narwal, Advocate
for the petitioner.

None for the respondents.

ARVIND SINGH SANGWAN, J. (Oral)

CM-9506-CII-2022

For the reasons stated in the application, same is allowed and
cross-examination of respondent No.1 Sunder Lal is taken on record.

CM stands disposed of.

CR-7099-2019

Prayer in this revision petition is for setting aside the order
dated 12.09.2019 passed by the Civil Judge (Jr. Divn.)-cum-Judicial
Magistrate 1st Class, Rohtak, vide which application filed by the plaintiff-
petitioner for issuance of direction to defendant Sunder Lal to furnish his

specimen writing for examination by handwriting expert, was declined.

It is noticed in the order dated 20.11.2019 that the respondents have been served through the counsel before the trial Court. Even otherwise, proceedings before the trial Court were stayed vide order dated 08.11.2019, which is a deemed service on the respondents.

Brief facts of the case are that the petitioner-plaintiff, who claims himself as NRI, filed a suit for possession by way of specific performance of agreement to sell dated 16.07.2009. The respondents-defendants contested the suit.

On an earlier occasion, the petitioner filed CR-3900-2015, which was decided on 16.05.2018, by passing the following order: -

“Plaintiff-petitioner is in the revision petition against the order passed by the learned trial Court refusing opportunity to the plaintiff-petitioner to get the signatures of the defendant compared from a hand writing and finger print expert.

The contention of learned counsel for the petitioner has aptly been noticed by this Court while issuing notice of motion on 04.06.2015, which is extracted as under:-

“Learned counsel for the petitioner has drawn the attention of this Court to the cross-examination of defendant. According to him, the defendant has unequivocally admitted his signatures at three points but denied his handwriting on the endorsement though he is

volunteered to give his specimen signatures Accordingly, an application (Annexure P-5) dated 22.01.2015 was moved which has been dismissed on the premises that it has been filed belatedly.”

This Court has seen the cross-examination of the defendant as well as photocopy of the agreement to sell. The agreement to sell runs into two pages and there is a separate receipt. Defendant admits his signature on the agreement to sell as well as on the receipt. However, he disputes his signatures on the endorsement by which target date for execution and registration of the sale deed was extended by two months.

Learned counsel for the respondents has, however, submitted that at this stage the application should not have been entertained particularly when the evidence of the plaintiff was closed by order.

Learned counsel for the petitioner has submitted that the application was moved when the defendant was being cross-examined and he denied his signatures on the endorsement. Subsequently, he submitted that if the evidence of the defendant has been closed that should not come in the way of the petitioner particularly when the application was moved immediately when the defendant denied his signatures.

Taking into consideration the aforesaid facts, the order under challenge is set aside. Petitioner is permitted to get the signatures of the defendant examined from a handwriting and finger print expert and produce and prove the aforesaid report. Revision petition is allowed.”

Learned counsel for the petitioner has drawn reference to cross-examination of defendant-DW1 Sunder Lal, to submit that in the cross-examination, this witness clearly stated that his signatures are at Point B at page 1 of Ex.P1, however, he stated that at Point C, he has not signed. This witness further stated that at Points D & E, there are his signatures and handwritten portion at page 2 of Ex.P1 is not written by him and he is ready to write in his own handwriting, whatever is written in Hindi in the Court, which is from portion C1 to C2. It is submitted that though while passing the order dated 16.05.2018, this Court granted permission to get the signatures of defendant Sunder Lal examined from a handwriting and fingerprint expert and produce and prove the same, however, inadvertently, at that stage, though there was prayer that defendant be asked to give his specimen signatures, but the same could not be granted.

Learned counsel has argued that once in the cross-examination, defendant/DW1 Sunder Lal has clearly admitted that he is ready to write in his own handwriting, whatever is written in Hindi in the Court, which is from portion C1 to C2 of Ex.P1, the trial Court should have allowed the application filed by the petitioner for directing the defendant to give his

specimen signatures and handwriting.

As noticed above, despite notice, no one has put in appearance on behalf of the respondents.

After hearing learned counsel for the petitioner and considering the fact that since as per the order dated 16.05.2018, a direction has already been issued granting permission to the petitioner-plaintiff to examine a handwriting and fingerprint expert to examine the signatures of the defendant, in order to make the said examination by the expert in more effective manner, it will be appropriate to direct the defendant to give his specimen signatures and handwriting, as admitted by him in the cross-examination, this petition is allowed and the impugned order dated 12.09.2019 is set aside.

Defendant/DW1 Sunder Lal is directed to give his specimen signatures and handwriting, as admitted by him in the cross-examination

Disposed of accordingly.

[ARVIND SINGH SANGWAN]
JUDGE

22.08.2022

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Whether speaking/reasoned : Yes/No

Whether reportable: Yes/No