

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-2999-2022 (O&M)
Date of decision: 22.05.2023

Amarjit Singh

...Petitioner

VS

Gurdip Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Surinder Thakur, Advocate,
For the petitioner.

Mr. Deepak Verma, Advocate,
For respondent No.1.

ARUN MONGA, J. (ORAL)

Petition herein, under Article 227 of Constitution of India is for setting aside the impugned order dated 19.07.2022 passed by learned Civil Judge (Junior Division), Garhshankar, vide which application filed by petitioner and pro forma respondent (defendants) for directing plaintiff/respondent No.1 to give his specimen signatures and handwriting in Punjabi language for comparing it with Ex. D1 (Annexure P-2), was dismissed.

2. Learned counsel for the petitioner contends that it is the pleaded case of petitioner/defendant No.1 that letter written by respondent No.1/ plaintiff to petitioner/defendant No.1 is a relevant and material piece of evidence which goes to root of the case. It is the consistent stand of petitioner that there was settlement arrived between him and respondent No.1 with respect to the properties acquired by them

from their father and as per the settlement, petitioner/defendant No.1 gave his share in the properties situated in Canada to respondent No.1/plaintiff. Similarly respondent No.1 gave his share in the properties situated in India and out of this settlement, the power of attorney Annexure P- 1 was executed by respondent No.1 in favour of petitioner. This settlement was duly endorsed by respondent No.1 by writing letter to the petitioner while he was in Canada and petitioner was in England. Since the respondent/plaintiff is not appearing himself and is contesting the civil suit filed by him through his attorney Chanchal Singh PW-1 and during cross- examination of this witness he showed his ignorance and unawareness with respect to this document i.e. letter Ex.D1 (Annexure P-2). Thus under these circumstances, it is quite necessary and in the interest of justice to allow the application filed by petitioner directing respondent/plaintiff to give his signatures and handwriting in order to get the same compared. However, vide impugned order dated 19.07.2022, application filed by petitioner was dismissed.

3. Learned counsel for respondent No.1 strenuously opposes the revision petition and supports the impugned order and argues that same is based on correct findings.

4. I have heard learned counsel for parties and gone through the case file.

5. Order assailed herein is premised, *inter alia*, on the following reasoning:

“Perusal of the file shows that after filing of present suit, plaintiff had appointed his attorney PW1 Chainchal Singh to continue the case by executing general power of attorney Ex.P1. Plaintiff is stated to be residing in

Canada with his family and it is categorically pleaded in reply to application that he has been medically advised not to visit India. Perusal of file shows that there are several admitted signatures of plaintiff Gurdip Singh on various documents i.e. GPA Ex.P1, plaint, power of attorney in favour of counsel etc. from where defendants can always get the sample of admitted signatures of plaintiff. There is apparently no document on file on which plaintiff had admittedly signed or written in Punjabi language in routine. The documents on record apparently show that plaintiff used to sign in English language and not in Punjabi language. The document Ex.D1 is relied upon by defendants which is allegedly written and signed by plaintiff. As per the pleadings of both the sides, admittedly, plaintiff had executed power of attorney in favour defendant no. 1 on 18.10.2003. Defendants always have remedy to avail the signatures of plaintiff from those documents which have been executed and signed by plaintiff in routine. Further, present suit has been proceeded with by plaintiff by appointing PW1 Chainchal Singh as his attorney thereby substantiating the plea taken in reply to present application that it is not possible for plaintiff to visit India. In the given facts and circumstances, no grounds are made to pass any direction to plaintiff to visit court personally and give specimen handwriting or signatures. Defendants shall prove their own case with the evidence to be brought by them. If defendants want to examine the handwriting on Ex.D1 by way of expert witness, defendants can get it done by getting the documents examined which are admittedly executed by plaintiff in ordinary course of nature. Accordingly, present application moved by defendants for giving direction to plaintiff to give his signatures and handwriting personally in court, is dismissed.”

6. A perusal of above leaves no manner of doubt that there is no irregularity either in facts or in law, so as to exercise extraordinary revisional jurisdiction vested with this Court.

7. Remaining contentions in the petition have been duly considered and rejected by Learned Court below by giving sound and convincing reasons in the impugned order, more particularly in the part extracted above. I am inclined to agree with the view thereon taken by learned Court below.

8. I am of the view that no useful purpose would be served to make plaintiff/respondent No1. herein send his fresh signatures from Canada where he is currently residing in view of the fact that he himself concedes that his admitted signatures are before the Court on the documents Ex. D1 which has already been exhibited. However, it is pertinent to mention here that said document bears the disputed signatures in Punjabi and it is not borne out from the order impugned herein, whether specimen of genuine signatures in Punjabi is otherwise available on the court file i.e. vakalatnama and/or plaint or any other affidavit etc. in support of plaint or otherwise.

9. There is another aspect of the matter. Given the constitutional right guaranteed under Article 20 of the Constitution of India, a person who is undertrial before Court cannot be compelled to be a witness against himself or against his own cause, which jeopardise the defense taken by him before the Court. As noted by Ld. Trial Court, plaintiff pleads that he is/was unable to come to the court personally due to covid restrictions since he is a resident of Canada

10. In the premise, it is left open to the Ld. Court below to seek specimen signatures of plaintiff/respondent by asking him to appear before the competent authority in the Indian High Commission and/or Consulate in Canada to provide his specimen of handwriting and signatures in Punjabi which can be attested by such authority and send to the Court directly, provided of course, the petitioner is willing to bear the incidental cost, which may be involved in doing the needful.

- 11. Revision petition is disposed of without interfering in the impugned order.
- 12. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

22.05.2023
Vandana

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