

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No.124

Case No. : CR No. 4958 of 2023

Date of Decision : August 29, 2023

Jugraj Singh

.... Petitioner

vs.

Manpreet Kaur and others

.... Respondents

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

* * *

Present : Mr. Amit Arora, Advocate
for the petitioner.

* * *

GURBIR SINGH, J. :

1. Challenge in this revision petition is to the order dated 24.05.2023 (Annexure P-4), passed by learned Additional Civil Judge (Senior Division), Patti, District Tarn Taran (hereinafter referred to as – the Trial Court), whereby evidence of the petitioner/plaintiff has been closed by order. Further challenge is to the order dated 11.08.2023 (Annexure P-7), passed by learned Trial Court, vide which the application moved by the petitioner/plaintiff for recalling the aforesaid order has been dismissed.

2. Learned counsel for the petitioner has submitted that application moved by the petitioner/plaintiff for examining handwriting and fingerprint expert, for comparison of signatures of Kulwant Singh (since deceased) on agreement to sell dated 28.07.2009, with his standard signatures, was allowed vide order dated 29.03.2023 and petitioner/plaintiff was given three effective opportunities to conclude his entire evidence. The

petitioner engaged handwriting and fingerprint expert namely Sukhjinder Singh, who took photographs on 27.04.2023 but failed to give the report. The case was adjourned to 17.05.2023 for awaiting report from handwriting and fingerprint expert. On that date, the petitioner/plaintiff changed his counsel. The case was adjourned to 24.05.2023 for concluding the evidence of the petitioner/plaintiff, failing which, it was directed that the evidence of the petitioner/plaintiff would be closed by order. Again on 24.05.2023, when learned counsel for the petitioner/plaintiff failed to examine any witness, evidence of the petitioner/plaintiff was closed by order (Annexure P-4) and the case was adjourned to 31.05.2023. Feeling aggrieved, the petitioner/ plaintiff moved an application under Section 151 CPC (Annexure P-5) for granting him permission to conclude entire evidence by affording opportunity but the same was dismissed vide order dated 11.08.2023 (Annexure P-7).

3. Learned counsel for the petitioner has submitted that the handwriting and fingerprint expert could not be examined as he had colluded with the respondents/defendants and petitioner/plaintiff wanted to change the handwriting and fingerprint expert. The evidence of handwriting and fingerprint expert is necessary, otherwise petitioner/plaintiff would suffer adversely.

4. In order to avoid delay of the case and financial burden on the other party, notice is not being issued to the respondents/defendants. No doubt, the petitioner/plaintiff availed many opportunities but vide order dated 29.03.2023, application moved by the petitioner/plaintiff for examining handwriting and fingerprint expert, was allowed with the

condition that petitioner/plaintiff would be given three effective opportunities to conclude his entire evidence. Thereafter, handwriting and fingerprint expert took photographs on 27.04.2023 and case was adjourned to 17.05.2023 and then to 24.05.2023. The handwriting and fingerprint expert did not file the report and evidence of the petitioner/plaintiff was closed by order.

5. Procedure is hand-maid to the administration of justice and is meant for advancement of justice. It is duty of the Court to do complete and substantial justice to the parties. Since non-examination of the handwriting and fingerprint expert is due to the reason that the said expert failed to give his report, so it was beyond the control of the petitioner/plaintiff. A litigant is dependent upon the legal advisors and experts. When service of a witness is not in the hand of petitioner/plaintiff, then it becomes the duty of the Court to procure his/her presence in accordance with law. Moreover, the Court could impose costs, compensate the other party for the delay caused but a party should not be non-suited merely on technicalities.

6. Learned counsel for the petitioner has further submitted that the petitioner is ready to produce his entire evidence at his own responsibility if only one effective opportunity is granted to the petitioner.

7. This Court is of the considered opinion that in case, handwriting and fingerprint expert is examined, it will help the concerned Court to arrive at a correct decision. The other party shall also get an opportunity to cross-examine the witness and truth would be before the Court.

8. In view of the aforesaid discussion, the present revision petition is allowed, subject to payment of Rs.25,000/- as costs, to be paid by the

petitioner to the respondents by way of two demand drafts of Rs.12,500/- each in the name of respondents no.1 and 3. The petitioner/plaintiff shall file the report of the handwriting and fingerprint expert within three weeks and thereafter, the learned Trial Court shall fix the date for examining the witness within two weeks thereof and cross-examination shall be conducted on the same day. In case, due to inability of the Court to get the cross-examination recorded on that particular day, then the same shall be recorded on the very next day.

9. The present revision petition stands allowed in the above terms.
10. If the respondents are not satisfied with this order, they can move an application for recalling the same within 30 days.
11. Pending applications, if any, shall stand disposed of along with this judgment.

August 29, 2023
monika

(GURBIR SINGH)
JUDGE

Whether speaking/reasoned ?	Yes/No.
Whether reportable ?	Yes/No.