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

(208)

CR-2582-2022

Date of Decision: 02.08.2024

Daljit Kaur and another

.....Petitioners

Versus

Manmohan Singh and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA**

Present: Mr. Vijay Rana, Advocate,  
for the petitioners.

Mr. Rohit Suri, Advocate, for the respondents.

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**HARKESH MANUJA, J.(ORAL)**

1. By way of present revision petition, challenge has been laid to an order dated 09.05.2022 passed by the trial Court whereby, an application filed at the instance of petitioners-defendants No. 4 & 5 seeking permission to examine Hand Writing Expert to compare the alleged signatures of the deceased Nirbhai Singh on the agreement in question dated 10.01.1994 with his standard signatures appearing on his passport, stands declined.

2. Briefly stating, based on an agreement to sell dated 10.01.1994 allegedly executed between the mother of respondent No.1/plaintiff with deceased Nirbhai Singh, suit for possession by way of specific performance came to be filed on 27.09.2012. Issues were framed on 24.01.2018 and thereafter, the evidence of respondent No.1/plaintiff came to be concluded on 25.11.2019. While the evidence of petitioners/defendants was in progress, an application for comparing the thumb impressions of Nirbhai Singh came to be filed at their instance on 05.04.2022 which was opposed by respondent No.1/plaintiff. The trial Court vide order dated 09.05.2022,

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allowed the application moved on behalf of respondent No.1/plaintiff.

3. Impugning the aforesaid order dated 09.05.2022, learned counsel for the petitioner submits that there was no inordinate delay on the part of the petitioners in moving the application as their evidence was still in progress. He further submits that comparison of alleged thumb impressions of deceased Nirbhai Singh on the agreement in question with his standard thumb impressions were essential for final determination of the case in hand as specific plea regarding forgery as well as fabrication of the document/agreement in question was pleaded by the petitioners in their written statement.

4. On the other hand, the prayer made herein has been vehemently opposed by the learned counsel appearing on behalf of respondent No.1/plaintiff while submitting that the application moved at the instance of petitioners was an afterthought as their evidence commenced soon after 25.11.2019 whereas, the application was moved on 05.04.2022 i.e. after a period of more than two and half years and as such, the impugned order warrants no interference.

5. I have heard learned counsel for the parties and gone through the paper book. I find substance in the submissions made on behalf of the petitioners.

6. In the present case, the suit for possession by way of specific performance, filed at the instance of respondent No.1/plaintiff is based on an agreement to sell dated 10.01.1994 which was allegedly executed between his mother Gurdev Kaur wife of Jarnail Singh as vendee purchaser and Nirbhai Singh as vendor seller. In the written statement though there was no specific pleadings about disputing or denying the signatures of Nirbhai



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Singh over the agreement in question dated 10.01.1994, however, plea regarding the said document being false, forged and fabricated one was set up. The relevant extract from para-2 of the preliminary objections in the written statement is extracted hereunder:

*“.....The alleged agreement pertaining to the suit property is false, forged and fabricated document and the same has been forged in connivance with the witnesses with malafide intention to grab the valuable suit property of the answering defendants.”*

7. In such circumstances, when the vendor Nirbhai Singh i.e. the predecessor-in-interest of the petitioners/defendants was not alive; having unfortunately died on 01.11.2001, mere fact that there was no specific denial of his thumb impressions over the document in question, the plea set up in written statement as regards the forgery and fabrication of the document in question was more than sufficient to grant permission in favour of petitioners for getting the signatures of Nirbhai Singh on the agreement in question compared with his standard signatures from his passport in order to adjudicate upon the validity of agreement in question in an effective manner. Further more, the application filed at the instance of petitioners/defendants cannot be said to be hit by delay or laches on their part or an act to delay the disposal of the suit as at the time of filing of the same, their evidence was still in progress and in such circumstances, the prayer made on behalf of petitioners/defendants could not have been denied. Besides it, in the absence of Nirbhai Singh on account of his unfortunate demise and espacially filing of suit by respondent No.1/plaintiff after a period of around 18 years of the alleged agreement, the comparison of signatures of Nirbhai Singh would even help the Court to arrive at a just and fair conclusion as

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regards the controversy in hand and to do substantial justice between the parties.

8. In view of the discussion made hereinabove, impugned order dated 09.05.2022 is set aside and the application filed at the instance of petitioners/defendants is hereby is allowed. The revision petition is disposed of accordingly.

9. Considering the fact that suit in hand is pending for the past almost 12 years, the trail Court is requested to expedite the proceedings and conclude the suit at the earliest.

**(HARKESH MANUJA)**  
**JUDGE**

**02.08.2024**

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No