

2024:PHHC:139907



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

**124**

CR-6183-2024 (O&M)  
Date of decision: 24.10.2024

Pawan Kumar

...Petitioner

Versus

Ramdiya

...Respondent

**CORAM: HON'BLE MR. JUSTICE VIKAS SURI**

Present: Mr. Manpreet Singh Sidhu, Advocate for the petitioner.

\*\*\*\*\*

**VIKAS SURI, J. (Oral)**

1. The instant petition under Article 227 of the Constitution of India has been filed assailing order dated 31.08.2024 whereby the application filed by the petitioner under Section 45 of the Indian Evidence Act, 1872, for sending the document for expert opinion, has been dismissed.

2. Briefly stated, the petitioner is defendant in a suit for possession by way of specific performance of agreement to sell dated 13.12.2019 with regard to land measuring 1K-5M.

2.1 Upon notice of the suit, petitioner-defendant opposed the same by filing written statement, wherein defence has been taken that the petitioner never entered into any agreement to sell dated 13.12.2019



rather, the plaintiff-respondent borrowed an amount of Rs.30 lakh through three cheques in question and at the time of borrowing the said amount, the plaintiff obtained signatures of defendant on various blank papers to secure the said loan amount.

2.2 The petitioner moved an application for sending the three cheques and the agreement to sell for expert opinion alleging that signatures on the agreement to sell are not of the plaintiff-respondent. Upon notice of the application, the same was opposed by filing reply.

2.3 After taking into consideration the rival contentions advanced by both sides, the trial Court dismissed the aforesaid application vide impugned order dated 31.08.2024.

3. Through the instant petition, the said order has been assailed.

4. Learned counsel for the petitioner submits that the defendant-petitioner has a right to have the signatures examined by document expert, as his defence evidence and thus, the application moved by him for the said purpose has been illegally dismissed.

5. I have heard learned counsel for the petitioner and with his able assistance, perused the case file.

6. A perusal of the impugned order shows that application was rejected by observing as under:-

“After hearing the rival contentions of both the parties, this Court is of the view that present application should not be allowed for the reason herein that the present application is for getting documents examined to expert for seeking his



report regarding signatures of plaintiff on cheque no.097312, 097315, 097316 dated 18.06.2019 of Rs.10 lacs each along with specimen signature of form or of the saving bank account of Ramdiya and of signature of plaintiff on agreement dated 13.12.2019 and application dated 16.03.2020 from FSL. Perusal of record shows that nowhere the plaintiff has ever denied signing the agreement dated 13.12.2019 or the cheques as mentioned above and when the plaintiff had himself not denied the execution by him of record then there seems to be no requirement for getting the expert opinion as per the application filed by the defendant. If the defendant denies the execution of agreement for which the case has been filed which is on record then he has to laid evidences for this and merely by getting the expert opinion the said issue cannot be decided. Accordingly, present application stands dismissed and disposed of accordingly.”

7. Concededly, the plaintiff-respondent has not denied his signatures on the agreement to sell dated 13.12.2019 rather, the present suit has been filed for specific performance of the said agreement to sell dated 13.12.2019. With regard to the signatures on the three cheques, it is not disputed that an amount of Rs.10 lakh each was withdrawn from Union Bank of India against the said three cheques from the account of the plaintiff. That being so, the same was only possible if the signatures on the cheques were the same as per the bank record, which maintained the account of the plaintiff, in normal course of banking.

8. In view of the above discussion, this Court is of the considered opinion that the impugned order does not suffer from any illegality or perversity that would require interference by this Court.



9. Accordingly, the present petition being bereft of merit is dismissed in *limine*.

October 24, 2024  
*sumit.k*

(VIKAS SURI)  
JUDGE

|                             |          |
|-----------------------------|----------|
| Whether speaking/reasoned : | Yes / No |
| Whether Reportable :        | Yes / No |