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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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Date of decision : 30.01.2025

Shamsher Singh @ Shami Kapoor @ Shamsher Bahadur (since deceased)
through his legal representative

... Petitioner

Versus

Avtar Singh (since deceased) through his legal representatives and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Aayush Gupta, Advocate
for the petitioner.

Mr.Vishal Aggarwal, Advocate
for the LR no.(iii) Harpreet Singh of respondent no.1.

VIKAS BAHL, J.(ORAL)

1. This is a Civil Revision Petition filed under Article 227 of the Constitution of India for setting aside the impugned order dated 08.01.2025 passed by the Civil Judge (Jr.Div.), Ludhiana.

2. On 20.01.2025, this Court was pleased to pass the following order:-

*“Present: Mr.Aayush Gupta, Advocate
for the petitioner.*

*Inter alia contends that in the present case,
respondent had filed a suit for possession of the property
having an area of 1784 square yards along with construction,
boundary wall, water and electricity connection with a right of*



passage with respect to the suit land on the basis of an agreement to sell dated 12.07.2006. It is submitted that as per the averments made in the plaint, the last date for execution of the sale deed was 15.05.2007 and it was further pleaded by the respondent-plaintiff that the time was extended by virtue of the endorsement dated 31.05.2007 upto 15.05.2008. It is submitted that in the written statement filed by the petitioner, the said endoresment was denied and was stated to be forged and fabricated and the petitioner had set up a case that there was a supplementary agreement dated 15.12.2006 executed between the parties. It is argued that initially issues were framed on 10.04.2014 (Annexure P-3) and additional issues were framed vide order dated 20.09.2014 which are as under:-

“2A. Whether the plaintiff is entitled to specific performance of the agreement dated 12.7.2006?OPP

2B. Whether the plaintiff has always been ready and willing to perform part of the contract?OPP

2C. Whether the plaintiff has paid a sum of Rs.50,00,000/- on 31.5.2007 and an endorsement for extension of time upto 15.5.2008 was made as alleged?OPP

2D. Whether the parties have executed a supplementary agreement dated 15.12.2006?OPD”

It is further submitted that on the prayer made by the respondent-plaintiff, one additional issue was framed on 19.02.2020 as to “Whether the plaintiff is entitled to refund of earnest money as prayed for?OPP” and vide the same order, the respondent-plaintiff was given two effective opportunities to lead his evidence qua the said additional issue. It is submitted that the plaintiff had closed his evidence on the said

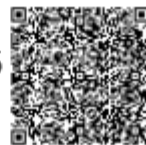


additional issue on 27.07.2023 and the petitioner-defendant thereafter had moved an application for leading secondary evidence to prove the supplementary agreement dated 15.12.2006 and the two receipts, which was allowed vide order dated 06.11.2023. It is submitted that thereafter the petitioner had moved an application dated 10.12.2024 for permission to examine the handwriting expert for comparison of signatures of Paramjit Singh @ Pritam Singh and in the said application it was stated that the supplementary agreement had been signed in the name of Pritam Singh and the original agreement had been signed in the name of Paramjit Singh. It is submitted that it is the stand of the petitioner that Paramjit Singh and Pritam Singh are one and the same person and thus, the said application had been moved to show that the handwriting of both the said witnesses was same. It is submitted that the said application had been however rejected without considering the fact that it is the evidence of the defendant which was going on and he had right to lead all evidence in order to prove his stand. It is further submitted that no prejudice would be caused to the plaintiff-respondent, inasmuch, as he has a right to cross-examine the witness who would be produced by the petitioner and the petitioner would also not raise an objection in case any handwriting expert is examined by the respondent-plaintiff in rebuttal to the evidence of handwriting expert produced by the petitioner.

Notice of motion to LRs of respondent no.1-plaintiff for 30.01.2025.

Liberty is granted to the petitioner to serve LRs of respondent no.1-plaintiff through dasti process or through the counsel before the trial Court.

Till the next date of hearing, the trial Court is directed to adjourn the case beyond the date fixed by this



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*Court.**To be shown in the urgent list.**January 20, 2025”*

3. Learned counsel for the LR of respondent no.1 has submitted that the report, if any, submitted by the Handwriting and Fingerprint expert examined by the petitioner, should not be taken on its face value and the respondent should be granted liberty to raise all the pleas to show that the said report does not prove that the said person Paramjit Singh and Pritam Singh are the same person. It is further submitted that since the petitioner had earlier also got a Handwriting and Fingerprint Expert examined, thus, for the delay caused in the proceedings, the petitioner should be burdened with costs.

4. Learned counsel for the petitioner in rebuttal has very fairly submitted that in view of the objection taken by the learned counsel for the LR of respondent no.1, he is ready to pay the cost of Rs.15,000/-.

5. Keeping in view the abovesaid facts and circumstances and the fair stand taken on behalf of the petitioner as well as the observations made in the impugned order dated 08.01.2025, the present revision petition is partly allowed and the order dated 08.01.2025 is set aside and the petitioner is granted one opportunity to examine the Handwriting and Fingerprint Expert but the same would be subject to the petitioner depositing an amount of Rs.15,000/- on or before the next date of hearing before the trial Court and in case of him doing so, the trial Court would release the said amount to the LRs of the plaintiff. In case the said amount is not deposited, then, the present petition shall be deemed to have been dismissed.



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6. Needless to say that it would be open to the LR's of the respondent-plaintiff to raise all the pleas against the said report of Handwriting and Fingerprint Expert and the trial Court would finally consider the matter after taking into consideration the entire evidence and documents on record and after giving due opportunity to both the parties to raise all the pleas.

(VIKAS BAHL)
JUDGE

January 30, 2025.
Davinder Kumar

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