



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

(127)

CR No.3194 of 2025 (O&M)

Date of Decision: 26.05.2025

Rajbir (deceased) through his LRs

...Petitioner

Versus

Seva Ram (deceased) through his LRs

...Respondent

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Rajesh Lamba, Advocate
for the petitioner.

VIKRAM AGGARWAL, J (ORAL)

The present revision petition is directed against the order dated 07.04.2025 (Annexure P-5) passed by the Court of Additional Civil Judge (Senior Division) Palwal, vide which the application (Annexure P-3) moved by the petitioner/plaintiff to examine a handwriting expert in rebuttal evidence was dismissed.

2. A suit for possession by way of specific performance (Annexure P-1) of agreement to sell dated 27.05.2016 along with consequential relief of permanent injunction was filed by the petitioner/plaintiff. The suit was opposed by way of written statement (Annexure P-2). The execution of the agreement to sell was admitted. It was however stated that since the petitioner/plaintiff was not ready and willing to perform his part of the agreement, the agreement was eventually cancelled after which the documents were forged by the petitioner/plaintiff.

3. After evidence of the plaintiff and defendant had concluded, an application was moved by the petitioner/plaintiff seeking permission to

produce a handwriting/signature expert in rebuttal evidence. It was averred that the defendant had produced a handwriting expert as a result of which it had become necessary for the petitioner/plaintiff also to examine a handwriting expert. The application was opposed by way of a reply (Annexure P-4). By way of the impugned order, the said application was dismissed leading to the filing of the present revision petition.

4. I have heard learned counsel for the petitioner.

5. Learned counsel has submitted that the trial Court erred in dismissing the application. It has been argued that once the defendant had examined an expert, it became imperative for the petitioner/plaintiff to examine an expert.

6. I have considered the submissions made by learned counsel for the petitioner but find the same to be devoid of merit.

7. Issues in the case were framed on 21.09.2019:-

- i. Whether the plaintiffs are entitled for a decree for permanent injunction, as prayed for ? OPP*
- ii. Whether the plaintiffs are entitled for a decree for possession by way of specific performance as prayed for? OPP*
- iii. Whether the suit of the plaintiffs is not maintainable? OPD*
- iv. Relief.*

A perusal of the aforesaid issues shows that the onus to prove issues No.1 and 2 was on the petitioner/plaintiff.

8. The petitioner/plaintiff did not examine any expert in the evidence in affirmative. The defendant examined an expert to prove the stand taken by them in the written statement. Thereafter, an application was

moved by the petitioner/plaintiff to examine an expert in rebuttal evidence. An expert could have been examined by the petitioner/plaintiff in rebuttal evidence only if evidence had first been led by the defendant on an issue, the onus to prove which was on the defendant. Still further nothing has been brought on record to show that any right was reserved to produce evidence in rebuttal when the petitioner/plaintiff was closed.

9. That being so, no illegality or jurisdictional error was committed by the trial Court in rejecting the application.

The revision petition is thus found to be devoid of merit and is accordingly dismissed.

Pending application(s), if any, shall also stand disposed of.

(VIKRAM AGGARWAL)
JUDGE

May 26, 2025
Rekha

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