

**CR No.3672 of 2018****1**

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

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Civil Revision No.3672 of 2018
Date of decision: March 23rd, 2026

Ram Agya

.....Petitioner

Versus

Moj Nath and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

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

Mr. Sandeep Verma, Advocate
for respondents No.1 to 3.

VIKAS BAHL, J. (ORAL)

1. This is a civil revision petition under Article 227 of the Constitution of India for setting aside the order dated 26.04.2018 passed by Additional Civil Judge (Senior Division), Chandigarh, whereby the application filed by respondents No.1 to 3 for permission to examine handwriting expert in rebuttal evidence had been allowed.

2. Learned counsel for the petitioner has submitted that a perusal of Annexure P-3 would show that the issues in the present case were framed on 16.05.2016 and the said issues are reproduced hereinbelow:

*“Present: Sh. Harsh Tandon, Advocate for the plaintiff.
Sh. Rajeev Gupta, Advocate for defendants no.1 and 2.
Defendants no.3 to 5 already exparte
Ms. Sonia Garg Advocate, for the defendant no.6.
Sh. Rajeev Gupta, Advocate for defendant no.6A.*

*Replications to the written statements of defendants no.1 &
2. defendant no.6, defendant no.6A and to the reply of application
under Order 39 Rules 1 and 2 CPC filed by defendants no. 1 and 2,
filed. Same are taken on record. Parties have not opted to send*



their dispute for resolution through any of the modes envisaged u/s 89 of CPC. Elements of such settlement are also not forthcoming. Heard on issues. From the pleadings of the parties and after hearing learned counsels for the parties following issues are framed:

- 1. Whether the defendant no.1 executed agreement to sell dated 18.8.1998 in favour of Sh.Sunder since deceased, upon receipt of earnest money, as alleged?OPP*
- 2. If issue no.1 is proved, whether the plaintiff and proforma defendant being successor in interest of late Sh. Sunder, remained ready and willing to perform their part of contract under the agreement to sell? OPP*
- 3. Whether the plaintiff is entitled for relief of specific performance of agreement to sell? OPP*
- 4. Whether the suit is not maintainable? OPD*
- 5. Whether the suit is barred by limitation? OPD*
- 6. Whether the defendant no.6A is bonafide purchaser of suit property for consideration and entitled to protection of his possession? OPD6*
- 7. Relief.*

No other issue is made out from the pleadings of the parties nor pressed by the parties. Now to come up on 16.8.2016 for evidence of the plaintiff. List of reliance and list of witnesses, if any, be filed within 15 days, otherwise, the plaintiff will not be entitled for the assistance of the Court while summoning his witnesses.

Pronounced: 16.5.2016

*(Akshdeep Mahajan)
Additional Civil Judge (Sr. Division)
Chandigarh"*

3. It is submitted that the onus to prove issue No.1 was on the plaintiffs and the handwriting expert which respondents No.1 to 3 are now seeking to produce in rebuttal evidence cannot be permitted as the said piece of evidence is not referable to any issue in which the onus is on the defendant. It is submitted that respondents No.1 to 3/plaintiffs have not even



reserved their right to lead evidence in rebuttal and in support of his arguments, he has relied upon the judgment of the Division Bench of this Court in the case of *Avtar Singh and another Versus Baldev Singh and others* passed in CR No.2203 of 2010 decided on 21.11.2014. It is submitted that in view of the same, the impugned order deserves to be set aside.

4. Learned counsel for respondents No.1 to 3 has very fairly submitted that since initially no specific plea was raised by the petitioner/defendant No.1 in the written statement to the effect that the agreement did not bear his signatures, thus, there was no occasion initially for the plaintiffs to lead the evidence of a handwriting expert and it is only subsequently when DW-3 in his cross-examination had denied his signatures that respondents No.1 to 3/plaintiffs sought to lead the evidence of handwriting expert. It is submitted that however in view of the abovesaid Division Bench judgment, the impugned order be set aside but liberty be granted to respondents No.1 to 3 to move an application including an application for additional evidence for examining the handwriting expert in additional evidence.

5. Learned counsel for the petitioner has submitted that in case any such application is filed, then, the petitioner be also granted liberty to raise all pleas in accordance with law.

6. Keeping in view the abovesaid facts and circumstances and the fair stand taken by the counsel for the petitioner as well as counsel for respondents No.1 to 3, the impugned order is set aside. The liberty as sought by counsel for respondents No.1 to 3, is granted. In case any such application is filed by respondents No.1 to 3, it would be open to both the



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parties to raise all pleas in accordance with law and the trial Court would decide the same independently.

7. The petition stands disposed of accordingly.

March 23rd, 2026
Puneet

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No