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

CR-632-2023 (O&M)

Date of Decision: 05.05.2026

Bir Singh

....Petitioner

Versus

Mamta and ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Amit Jain, Advocate
for the petitioner.

Mr. Gaurav Jaglan, Advocate
for the respondents.

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HARKESH MANUJA, J. (ORAL)

By way of present revision petition, challenge has been laid to an order dated 30.11.2022 passed by the Court of learned Additional Civil Judge (Senior Division), Sohna, whereby an application preferred at the instance of petitioner/ plaintiff for seeking permission to obtain specimen thumb impression and signatures of respondent No.1/ defendant No.1 for comparison on the documents i.e. agreement to sell dated 24.07.2012 (Ex.P1) as well as the receipt of even date (Ex.P2), stands declined.

2. In the present case, based on an agreement to sell dated 24.07.2012 pertaining to agricultural land measuring 30K-13M situated in the revenue estate of Village Sahajawas, Tehsil Sohna, District Gurugram, the petitioner/ plaintiff filed a suit for possession by way of specific performance and permanent injunction against his vendors/ respondents/ defendants.

3. Upon appearance, respondent No.1/ defendant No.1-Mamta while denying the execution of the agreement to sell admitted that her signatures and thumb impression were obtained by the petitioner/ plaintiff on some blank papers. Relevant part of para No.1 of the preliminary objections in the written statement filed by respondent No.1/ defendant No.1, is extracted hereunder:-

“1. That the plaintiff has not come with clean hands and concealed the true and material facts from this Hon'ble court and has supplied false information in the plaint. As such, the plaintiff is guilty of concealing the true and material facts. In fact it is submitted that the defendant No. 1 is illiterate and simpleton Parida Nashin widow lady and only can sign in Hiridi script She unable to read an language. The plaintiff is well known property dealer in the area. The villages of plaintiff and defendants Sehjas and Rithoj are adjacent to each other. The plaintiff was very well known the defendants and other villagers. The defendant No. 1 want to get the land in question partitioned from other co-sharers. The plaintiff told the defendant No. 1 that he can help the defendant No. 1 for filing the partition proceedings. The plaintiff has obtained the signatures and thumb impressions of the defendant No. 1 on some blank printed papers for tiling of the partition petition. The defendant No. 1 on receipt of summons of this case came to Sohna Courts and engaged counsel and she only first time came to know that the plaintiff has prepared false, forged and fictitious agreement to sell on blank printed papers. The plaintiff has played fraud with the defendant No.1.....”

Even while appearing as DW1, at the time of tendering her affidavit Ex.DW1/A, respondent No.1/ defendant No.1 maintained the

aforesaid stand. Relevant paragraph No.2 of her affidavit is extracted hereunder:-

“2. That Bir Singh asked Mamta that he will get a separate khewat carved out of their land by filing a partition case in court and for getting the land partitioned through Court Bir Singh obtained signatures/thumb impression of Mamta on some blank papers and said that you are not required to go to Court.”

However, during her cross-examination on 12.10.2022, respondent No.1/defendant No.1, for the first time, denied her signatures on the agreement to sell dated 24.07.2012 (Ex.P1), which was proved on record by the petitioner/ plaintiff. The relevant part of the cross-examination is extracted hereunder:-

“Question: Document Ex.P-1 Agreement to sell bears your signatures or not?

Answer: No. I did not put my signatures on point D-1, D-2, D-3 of Ex.P-1.”

Faced with this development, the petitioner/ plaintiff immediately moved an application dated 07.11.2022 before the learned trial Court, with the following prayer:-

“It is, therefore, humbly prayed that the application may kindly be allowed and defendant Mamta be directed to give specimen before the Hon'ble court to the expert to allow him give his expert opinion about the existence of specimen thumb impression & sign of the defendant Mamta and those on the documents Ex-P1 & Ex-P2 along with the any other document specimen required by the expert, in the interest of justice.”

The aforesaid application was opposed at the hands of respondent No.1/ defendant No.1. The learned trial Court, vide order dated

30.11.2022 declined the prayer made on behalf of the petitioner/ plaintiff while making the following observations:-

“This Court is of the considered opinion that perusal of the written-statement of the respondents No.1 to 4 itself reveals that said respondents had taken the plea in their written –statement that the signature of the party had been obtained on blank paper which were later on converted into agreement to sale. The said signatures were obtained on printed blank papers. In these circumstances, it was incumbent upon the applicant to get the expert witness examined in his evidence. At this stage when the case is at the fag end and the evidence of the applicant had already been closed, the present application cannot be allowed on the basis of the cross-examination in which she has also taken the same stand that she had appended the signature on the blank papers. The onus is upon the applicant that the signature appended by the respondent No. 1 not on the blank papers but the agreement to sale. Hence, the present application stands declined.”

4. I have heard learned counsel for the parties and gone through the paper-book.

5. In the humble opinion of this Court, the aforesaid reasoning recorded by the learned trial Court cannot be sustained. From the facts and circumstances of the present case, it is apparent that the petitioner/ plaintiff has been pursuing his suit in a diligent manner. Right from the stage of filing of the written statement by respondent No.1/ defendant No.1, the signatures and thumb impression on the agreement to sell dated 24.07.2012 i.e. Ex.P1 were admitted by her, though the execution of the agreement in question was denied. Respondent No.1/ defendant No.1 even at the time of filing of her affidavit in evidence as Ex.DW1/A went on to maintain the aforesaid stand, however, it was only during her cross-

examination on 12.10.2022 that, for the first time, she denied her signatures on the agreement to sell (Ex.P1). Thus, the need for filing the application seeking specimen signatures and thumb impressions arose only at that stage. In such circumstances, it can, by no stretch of imagination, be said that the application filed at the instance of petitioner/ plaintiff was belated one. Rather, the application was a natural consequence of the change in stand of respondent No.1/defendant No.1 during her cross-examination. In such circumstances, the order dated 30.11.2022 passed by the learned trial Court, for the said reason, cannot be sustained.

6. Accordingly, the present revision petition is allowed and the order dated 30.11.2022 passed by the learned Additional Civil Judge, Senior Division, Sohna, is hereby set aside. The prayer made by the petitioner/ plaintiff in his application dated 07.11.2022 (Annexure P-4, pages 55 to 57 of the paper-book) is allowed. The learned trial Court to proceed further in accordance with law.

7. Disposed of.

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

05.05.2026
sanjay

(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned?
Whether Reportable?

Yes/No
Yes/No