



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

**CR-3631-2015(O&M)**

**Date of Decision: May 03, 2025**

Mahabir

...Petitioner

Versus

Attar Singh and others

...Respondents

**CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI**

Present: Mr.Sumit Sangwan, Advocate  
for the petitioner.

Mr.Virender Singh Punia, Advocate  
for the respondents.

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**ARCHANA PURI, J.**

The petitioner has invoked the jurisdiction of this Court under Article 227 of the Constitution of India, to assail the order dated 06.05.2015 (Annexure P-1) passed by learned trial Court.

The facts germane, to be noticed, are as follows:-

That, initially, petitioner-Mahabir (plaintiff before learned trial Court) had filed a suit for declaration against the respondents-defendants, thereby, asserting himself to be owner-in-possession in equal share of the land measuring 84 Kanal 10 Marla, to the extent of 1/5th share along with proforma respondents No.4 to 8. During the pendency of the suit, when the case was at the stage of arguments, Med @ Umed Singh, respondent No.2-



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defendant No.2, had filed an application for taking signatures and thumb impressions of petitioner-plaintiff Mahabir, for the purpose of comparison. The relevant paragraph of the application i.e. paragraph No.2, reads as herein given:-

*“That the affidavit dated 23.04.1978 which is Ex.D1 bears the thumb impression of Mahabir son of Dungar, resident of Patuwas and Smt.Chhota widow of Lachhi Ram son of Sheokaran resident of Patuwas was owner of her landed property has executed Mahabir-plaintiff as his power of attorney on 27.06.1977 and the power of attorney No.34 dated 27.06.1977 Mahabir put his signatures and that power of attorney was revoked by Smt.Chhota on 23.06.1978. On the revocation of power of attorney No.38 dated 23.06.78 Mahabir also put his signature, so to compare that signature and thumb impression is necessary for legal and proper adjudication of this case.”*

On the basis of the aforesaid assertions, it was further pleaded in the application that the same be allowed and the thumb impressions and signatures of Mahabir be taken to compare the same.

However, in reply, the petitioner-plaintiff resisted the application as it was asserted that these documents were in possession and knowledge of the applicant. They could have been annexed with the written statement, but it was not done so. Thereafter, Mahabir had also appeared as a witness, two times before the Court and his statement was recorded. The applicant-defendant No.2 had obtained full opportunity to cross-examine and he skipped this opportunity. Even, documents were not put to the petitioner-

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plaintiff, during the course of cross-examination. As such, a prayer was made for dismissal of the application.

After hearing counsel for the parties, learned trial Court allowed the application vide impugned order and the petitioner-plaintiff Mahabir, who was present in the Court, was given direction to put his specimen signatures or thumb impression on a piece of paper, delivered to him by the Court and thereafter, it was ordered to be placed on the file for comparison of the same by expert and the case was further adjourned for evidence of the defendant.

Being aggrieved, the petitioner-plaintiff has filed the present revision petition.

At the very outset, it is submitted by learned counsel for the petitioner that all the assertions made in the application, with regard to affidavit dated 23.04.1978 Ex.D1 and also about the power of attorney dated 27.06.1977 and power of attorney dated 27.06.1977, having executed by Smt.Chhota widow of Lachhi Ram, wherein, Mahabir was appointed as attorney holder and which was subsequently revoked, never formed part of the pleadings of the parties, nor it was ever put to the petitioner-plaintiff, at the time, when he stepped into witness box. It was only when the case was fixed for recording of the defendants' evidence and several opportunities had already been availed, that the aforesaid application was filed by respondent-defendant No.2.

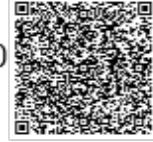
In fact, it is submitted that these documents are not necessary and not relevant to decide the issue and there is no explanation, coming forth, as to

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why these documents were not produced or mentioned in the pleadings.

It is pertinent to mention that plaint as well as the written statement are coming on record. Though, there is dispute regarding question of inheritance of the property, with regard to the predecessors of the petitioner-plaintiff, but however, there is no mention made, with regard to the affidavit executed on 23.04.1978, which is asserted to be having thumb impressions of Mahabir, in the application and the same to be Ex.D1. Besides the same, there is also no mention made of power of attorney dated 27.06.1977, which was executed in favour of Mahabir and the revocation of the said power of attorney, wherein, Mahabir had also affixed his signatures.

Nothing, as such, is coming on record, about the assertion of execution of the affidavit or of the power of attorney in the written statement. This was also not put to Mahabir, when he stepped into witness box. In the given circumstances, it has been rightly asserted by the petitioner-plaintiff that application has been filed for filling up of the lacuna. It is an obligation of the Court not to permit a party to adduce irrelevant evidence or the evidence, beyond pleadings, in order to avoid wastage of time and effort of all the stakeholders, including the Court also. When the documents, as such, have not been pleaded in the written statement and also no such version has been mentioned in the written statement, relating to these documents qua which, the comparison of the signatures of Mahabir is sought to be made and when this version as well as documents were not even put to Mahabir, when he stepped into witness box, definitely, no useful purpose will be served by allowing the party to seek comparison of the

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alleged signatures of Mahabir, on the documents, which were never relied upon, either in the pleadings or during the course of conducting of the cross-examination of plaintiff.

The purpose of filing of these documents and the relevance of the same, has also not been put forth in the application. The application is quite vague. Even if, it is so considered, then also, the relevance of the same, as such, is not evident.

Considering the same, at the stage of defendants' evidence, no such comparison can be allowed, when the version, with regard to the affixation of thumb impressions/signatures of Mahabir, on these documents to the controversy in hand, was never pleaded and never put to the witnesses of the petitioner-plaintiff. Thus, learned trial Court, solely, on the ground of case being fixed for defendant's evidence, has erroneously allowed the said application.

Consequently, the impugned order dated 06.05.2015 warrants interference by this Court and the same is set aside. The application filed by the respondent-defendant No.2 stands dismissed.

Hence, the revision petition stand allowed.

**May 03, 2025**  
Vgulati

**(ARCHANA PURI)**  
**JUDGE**

Whether speaking/reasoned  
Whether reportable

**Yes**  
**Yes/No**