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

(139)

CR-585-2025

DATE OF DECISION:- 29.01.2025

SANJAY KUMAR

... PETITIONER

VERSUS

SANJEEV KUMAR

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Mohit Jaggi, Advocate
for the petitioner.

SUVIR SEHGAL, J. (Oral)

1. Petitioner-defendant is aggrieved of order dated 24.01.2025 passed by learned Civil Judge (Junior Division), Chandigarh, whereby an application moved by him to examine a Forensic Expert by way of additional evidence has been declined.
2. Mr. Mohit Jaggi, counsel for the petitioner has submitted that the petitioner and respondent are brothers and a property dispute is pending between them. He states that on the basis of a forged WILL dated 17.12.2010, Annexure P-1, respondent-plaintiff instituted a suit, Annexure P-2, for partition by metes and bounds and possession of House No.71, Sector 15-A, Chandigarh against the defendant. He submits that the suit being contested by the defendant, who filed the written statement on 15.10.2019, Annexure P-3 and issues were framed by the Trial Court. He submits that both the parties have led their evidence, but due to poor health of the petitioner, he could not consult

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any expert and on 23.01.2025, Annexure P-6, he moved an application for examination of a Forensic Expert, which has been declined vide impugned order. It is his argument that in case the petitioner-defendant is not permitted to produce an expert to examine the genuineness of the WILL, his defence is likely to be seriously prejudiced.

3. I have heard counsel for the petitioner and considered his submissions.
4. Plaintiff filed a suit for partition and possession on 21.07.2017 claiming that on the basis of a WILL dated 17.12.2010, Annexure P-1, executed by his father, he has become owner of 70% share, that is, ground floor and top floor of the residential house and that defendant is the owner of 30%, that is, first floor of the house. Defendant appeared and contested the suit and on the basis of the pleadings of the parties, issues were framed on 23.11.2023, Annexure P-4. A specific issue *vis* Issue No.2 has been framed by the Trial Court to the effect as to whether Radha Krishan executed a WILL dated 17.12.2010 during his lifetime. The onus of this issue has been placed on the plaintiff. After leading his evidence, plaintiff closed his evidence on 22.05.2024 and after numerous opportunities, defendant closed his evidence on 20.12.2024. It is not the case of the defendant that he did not get sufficient opportunities to lead his evidence. Indisposition of the defendant is not a ground for permitting him to lead additional evidence, more particularly, when the trial is fixed at the stage of arguments.
5. A party cannot be permitted to lead additional evidence in routine. There is no specific provision in the Code of Civil Procedure after the deletion of Order 18 Rule 17 A, CPC with effect from 01.07.2002, for permitting a party to lead additional evidence. Under the garb of leading additional

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evidence, a party cannot fill in the omissions in the evidence when sufficient opportunity has already been afforded to it to adduce all the material on the record. There is no irregularity or illegality in the order passed by the Trial Court.

6. Revision petition being devoid of merit is dismissed with no order as to costs.

(SUVIR SEHGAL)
JUDGE

29.01.2025
kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No