



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

(121)

CR No.172 of 2025

Date of Decision: 15.01.2025

Kusum Lata

...Petitioner

Vs

Mahendera Jain

...Respondent

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Abhinav Kalia, Advocate
for the petitioner.

VIKRAM AGGARWAL, J (ORAL)

The present revision petition is directed against the order dated 22.11.2024, passed by the Court of learned Civil Judge (Sr. Division), Kalka, vide which the application (Annexure P-5) filed by the petitioner-defendant for permission to examine the handwriting and document expert as regards the alleged Will dated 30.11.1993 was dismissed.

2. The facts, as emanating from the record, are that a suit for declaration was filed by respondent-plaintiff basing his claim on Will dated 30.11.1993 having been executed by one Sh. Ram Pal Ahluwalia. The suit was opposed by the petitioner-defendant by way of a written statement (Annexure P-2) in which the execution of the Will was denied. He submits that during the evidence of the petitioner-defendant, an application was moved seeking permission to examine a Document and Handwriting Expert, which was dismissed by the trial Court vide impugned order dated 22.11.2024 leading to the filing of the present revision petition.

3. Learned counsel for the petitioner submits that the learned trial Court erred in rejecting the application, because after the initial onus having

been discharged by the plaintiff, onus would be on the defendant to disprove the Will. He submits that the Will is a forged and fabricated document and for the said purpose, examination of the expert is essential. He further submits that mere reliance upon the expert witness by respondent-plaintiff would prejudice the interest of petitioner-defendant.

4. I have considered the submissions made by learned counsel for the petitioner.

6. In the considered opinion of this Court, the application filed by the petitioner should have been allowed. It is well known that experts tend to give reports in favour of the parties they represent. It would be then for the Court to weigh the evidence and decide the case in accordance with law. Where there are rival claims as regards documents, requests for examination of expert should ordinarily not be declined. The impugned order does not disclose any extraordinary circumstances for rejection of the application.

In view of the above, the present revision petition is allowed. The impugned order dated 22.11.2024 is set aside and the application moved by the petitioner is allowed. The trial Court is directed to grant one opportunity to the petitioner to examine the expert witness in terms of the application (Annexure P-4) on a date to be fixed by the trial Court.

(VIKRAM AGGARWAL)
JUDGE

January 15, 2025

Rekha

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