



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

CR-1844-2025

Date of decision : 27.03.2025

Bhupender Singh

... Petitioner

Versus

Dropati (now deceased) through LR and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Jagat Singh, Advocate and
Mr.Raj Kumar, Advocate
for the petitioner.

VIKAS BAHL, J.(ORAL)

1. This is a Civil Revision Petition filed under Article 227 of the Constitution of India for setting aside the impugned order dated 06.03.2025 passed by the Civil Judge (Sr.Div.), Bhiwani, vide which the prayer of the petitioner for recording the statement of fingerprint and handwriting expert in rebuttal evidence has been declined.

2. A perusal of the order dated 06.03.2025 would show that the present petitioner had filed an application dated 18.09.2019 for taking specimen handwriting of defendant no.2-Gauri Shankar and vide order dated 18.09.2019, the trial Court had observed that the said application would be taken into consideration at the stage of evidence on behalf of the plaintiff-petitioner. It had further been observed that several effective opportunities were granted to the plaintiff-petitioner to lead his evidence but



the plaintiff-petitioner did not opt to press the application for deputing the fingerprint and handwriting expert and on 09.05.2023, the evidence of the plaintiff-petitioner was closed by order. It had further been observed that the order dated 09.05.2023 was challenged by filing Civil Revision before the High Court and the High Court had granted opportunity to cross-examine four witnesses of the plaintiff-petitioner i.e., PW-1 to PW-4 vide order dated 12.07.2023 but the present petitioner did not pray in the said revision petition that the application for taking specimen signature of defendant no.2-Gauri Shankar was pending and that he wanted to adduce evidence of the said witness and that the said liberty be granted. It had also been observed that thereafter at the stage of rebuttal evidence, the petitioner opted to adduce the evidence of handwriting expert by pressing the abovesaid application dated 18.09.2019 for appointment of fingerprint and handwriting expert for taking specimen signatures of defendant no.2-Gauri Shankar and the said application was dismissed on 17.12.2024. It had further been observed that the petitioner had moved the present application at the stage of rebuttal evidence for recording the statement of fingerprint and handwriting expert and indirectly the same prayer, as was sought in the application dated 18.09.2019 and had been declined on 17.12.2024, was made by the plaintiff-petitioner and that since the plaintiff-petitioner had to adduce the said evidence at the stage of his evidence by way of affirmative evidence, thus, the same could not be allowed at the stage of rebuttal evidence. The factual observations made in the impugned order have not been disputed before this Court.

3. Neither the order dated 17.12.2024 nor the application dated



18.09.2019 has been annexed along with the present revision petition. It is not disputed before this court that an earlier application dated 18.09.2019 for the similar relief was filed by the petitioner and the same was dismissed vide order dated 17.12.2024 and thus, it does not lie in the mouth of the petitioner to re-agitate the same issue / prayer again and again during the course of the same proceedings / suit. Moreover, after the closure of the evidence of the petitioner vide order dated 09.05.2023, the petitioner had filed CR-3346-2023 in which on 12.07.2023, the following order was passed:-

“1. Prayer in this revision petition filed under Article 227 of the Constitution of India is for setting aside the order dated 09.05.2023 (Annexure P-5), passed by the learned Civil Judge (Junior Division), Bhiwani (hereinafter referred to as - Trial Court).

2. Learned counsel for the petitioner inter alia submits that plaintiff's witnesses i.e. PW-1 to PW-4 had already been partly examined as their examination-in-chief was recorded and on the request of counsel for the defendants, the cross-examination of the said witnesses was deferred. The case was adjourned to 16.01.2023. On the said date, witnesses of the plaintiff could not come present and the matter was adjourned to 09.05.2023. Again on the said date, the aforesaid witnesses did not appear and evidence of the plaintiff was closed by Court order.

xxx xxx xxx

8. ...The learned Trial Court is directed to fix the case for cross-examination of the aforesaid four witnesses within one month. The said witnesses shall be produced by the plaintiff-petitioner at his own responsibility and they shall be cross-examined on the same day. In case, the Trial Court is not able



to examine the witnesses on that day, then the said witnesses be cross-examined on the very next working day.

9. The petitioner is burdened with costs of Rs.5,000/-, out of which Rs.2,000/- shall be deposited with the concerned District Legal Services Authority and Rs.3,000/- shall be paid to the respondent no.2.

10. Pending applications, if any, shall stand disposed of along with this judgment.”

4. A perusal of the above order dated 12.07.2023 would show that no prayer was made by the petitioner for directing the trial Court to permit the petitioner to examine the handwriting expert or to take specimen signatures of defendant no.2- Gauri Shankar. The only prayer which was made in the said revision petition was for cross-examination of four witnesses i.e., PW-1 to PW-4 as their examination-in-chief had already been recorded and the same had been allowed by the Co-ordinate Bench of this Court. Once in the application dated 18.09.2019 for taking specimen handwriting of the defendant no.2-Gauri Shankar, an order was passed that the same would be taken up at the time of evidence of the plaintiff-petitioner and that thereafter the evidence of the plaintiff-petitioner had been closed by order vide order dated 09.05.2023 and in challenge to the said order, a limited prayer, as has been noticed in the above said order passed by the Coordinate Bench, had been made, it is not subsequently open to the petitioner to raise a plea which has not been raised by the petitioner at the time of adjudication of said Civil Revision i.e., CR-3346-2023 and thus, on the said ground also, the present revision petition deserves to be dismissed.



5. Additionally, it would be relevant to mention that even the issues framed have not been placed on record and thus, the plea sought to be raised by the petitioner to the effect that in rebuttal evidence the petitioner should be permitted to examine handwriting expert is also baseless. At any rate, the impugned order has been rightly passed and is thus upheld and the present revision petition being meritless deserves to be dismissed and is accordingly dismissed.

(VIKAS BAHL)
JUDGE

March 27, 2025.

Davinder Kumar

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No