

**HIGH COURT OF PUNJAB AND HARYANA  
BENCH : HON'BLE MRS. JUSTICE ALKA SARIN  
Date of Decision: 1<sup>st</sup> May 2024**

CR-2628-2024 (O&M)

**SUMAN SHARMA ...Petitioner  
VERSUS**

**MOHAN LAL (SINCE DECEASED THR LRS) & ANR. ...Respondents**

**Legislation and Rules:**

Article 227 of the Constitution of India

**Subject:** Revision petition challenging the Trial Court's denial of an adjournment request for cross-examination of a forensic expert in a case involving disputed signatures and thumb impressions on legal documents.

**Headnotes:**

Revision under Article 227 against order denying adjournment for expert cross-examination – Challenge against Trial Court's order dated 16.04.2024 dismissing adjournment application for cross-examining Dr. Jassy Anand (PW-7), a forensic expert engaged to compare signatures/thumb impressions in property transaction documents – Supreme Court previously granted only one opportunity for plaintiff to complete evidence, specifically directing that proceedings conclude by 30.04.2024 – High Court finds no merit in petitioner's claim that an additional opportunity should be granted for producing the expert for cross-examination, noting the specific directive of the Supreme Court for only one opportunity and adherence to scheduled dates by the Trial Court – Revision petition dismissed due to lack of substantive reasoning for the expert's non-availability on the fixed date and the Trial Court's correct application of the Supreme Court's directive. [Paras 1-6]

Referred Cases: None cited.

Representing Advocates:

Mr. Rakesh Bakshi for the petitioner.

ALKA SARIN, J. (ORAL)

1. This is a revision petition under Article 227 of the Constitution of India challenging the impugned order dated 16.04.2024 (Annexure P-19) passed by the learned Civil Judge (Junior Division), Ambala vide which the application dated 16.04.2024 filed by the plaintiff-petitioner for granting an adjournment for cross-examination of witness, namely, Dr. Jassy Anand (PW-7) was dismissed.

2. Brief facts which are germane to the present controversy need to be noticed before adverting to the merits of the present case. An application was filed by the plaintiff-petitioner for engaging the services of Dr. Jassy Anand, Forensic Consultancy (Forensic Expert) to compare the signatures/thumb impression of the defendant-respondent Mohan Lal on the power of attorney with the disputed signatures/thumb impression on the agreement to sell dated 25.05.2006 and gift deed dated 18.01.2007 executed by the defendant-respondent in favour of his son, namely, Sarwan Kumar. The said application was dismissed vide order dated 09.02.2017. The order dated 09.02.2017 was challenged by the plaintiff-petitioner by filing a civil revision petition in this Court being CR-1522-2017 which was allowed vide order dated 15.03.2018 and the plaintiff-petitioner was permitted to examine Dr. Jassy Anand, Forensic Consultancy (Forensic Expert) as a witness. Subsequent to the civil revision petition being allowed, an affidavit in examination-in-chief of Dr. Jassy Anand was filed. On 08.08.2018 the cross-examination could not be conducted due to unavailability of the expert of the opposite party though PW-7 i.e. Dr. Jassy Anand was present. On 20.08.2018 in the Special Leave Petition (SLP-25061-2018) preferred by the defendant-respondent challenging the order dated 15.03.2018, notice was issued and the operation of the impugned order dated 15.03.2018 passed by this Court was stayed. The matter, thereafter, proceeded and the evidence of the remaining witnesses was completed. On 11.03.2024 the Special Leave Petition being SLP-22957-2018 was dismissed by the Hon'ble Supreme Court and the following order was passed :

“1. Heard learned counsel for the parties and perused the record.

2. The High Court in exercise of its revisional jurisdiction has accorded one opportunity to the respondents to examine an expert, namely, Dr. Jassy Anand's Forensic Consultancy as a witness for comparing the signatures/thumb impression of Mohan Lal (defendant) on the written statement/power of attorney with the disputed signatures/thumb impression of the agreement to sale and gift deed.
3. In the peculiar facts and circumstances of this case, we are not inclined to interfere with the impugned order except to direct the Trial Court that only one opportunity shall be granted to the respondents/plaintiffs in this regard, for which the proceedings shall be taken up on or before 30.04.2024. The Trial Court, shall, thereafter, make an endeavour to conclude the trial as early as possible and preferably within six months.
4. The special leave petition is, accordingly, dismissed.
5. All pending applications, if any, also stand disposed of.”

On 02.04.2024 the Trial Court, while passing the following order, granted one opportunity to conclude the cross-examination of Dr. Jassy Anand (PW-7).

“Whole file perused. Order of the Hon'ble Supreme Court of India also perused. Vide this order "Trial Court

is directed to grant one opportunity to the plaintiffs/respondents, for which the proceedings shall be taken up on or before 30.04.2024. The Trial Court shall thereafter, make an endeavour to conclude the trial as early as possible and preferably within six months". Keeping in view the order of Hon'ble Supreme Court of India today both the counsels of the plaintiff and defendants appeared before the Court. Learned counsel for the plaintiff submitted before the Court that he had already tendered an affidavit of PW-7 Dr. Jassy Anand as PW-7/A on dated 18.05.2018 and cross-examination of that witness was deferred and it is deferred till today so he wants to examine only this witness. Keeping in view the order of Hon'ble Supreme Court of India and careful perusal of the file this Court grants one opportunity to the defendant to conclude cross-examination of PW-7 Dr. Jassy Anand by the defendant and concluding the evidence of the plaintiff on that day fixed. It is clear that no further opportunity shall be granted to the defendant for concluding the cross-examination of PW-7 and examination of any other witness by the plaintiff. Adjourned to 16.04.2023 for cross-examination of PW Jassi Anand.” On 16.04.2024 an application for adjournment was filed on behalf of the plaintiff-petitioner on the ground

that the witness was not available and hence the matter be adjourned to either 19.04.2024 or 24.04.2024. The Trial Court vide the impugned order dated 16.04.2024 declined the said request in view of the order passed by the Hon'ble Supreme Court which clearly stated that only one opportunity shall be granted to the plaintiff in this regard for which the proceedings shall be taken up on or before 30.04.2024.

3. Learned counsel appearing on behalf of the plaintiff-petitioner would contend that vide the order dated 02.04.2024 passed by the Trial Court, opportunity was granted to the defendant to conclude the cross-examination of PW-7 and no opportunity was granted to the plaintiff-petitioner and hence one opportunity ought to have been granted to the plaintiff-petitioner also to produce the witness for her cross-examination.
4. Heard.
5. In the present case, as is apparent from the facts mentioned above, the Hon'ble Supreme Court on 11.03.2024 while dismissing Special Leave Petition being SLP-22957-2018 had granted only one opportunity to the plaintiff-petitioner for completing the evidence of the witness, namely, Dr. Jassy Anand. The said order itself is clear and unambiguous that only one opportunity was to be granted for which proceedings were to be taken up on or before 30.04.2024. The case was taken up by the Court on 01.04.2024 and kept for 02.04.2024. On 02.04.2024 the witness PW-7 Dr. Jassy Anand could have been present for cross-examination but was not present. The Court kept the matter for 16.04.2024 for cross-examination of PW-7 Dr. Jassy Anand. It is not the case of the plaintiff-petitioner that the counsel was not present and the date for cross-examination was given in his absence. There is no reason forthcoming as to why on 02.04.2024 itself a date suitable to the expert witness could not have been requested for. On 02.04.2024 fourteen days' time was granted to the parties for the cross-examination of PW-7 Dr. Jassy Anand. That being so, there was no reason for the Court to accept the application filed on 16.04.2024. Infact, the application dated 16.04.2024, which is appended with the petition as Annexure P-18, is totally bereft of any reasoning as to why the said witness was unable to come forward for the cross-examination on the date fixed by the Court i.e. 16.04.2024.
6. In view of the above, I do not find any merits in the present revision petition and the same is accordingly dismissed. Pending applications, if any, also stand disposed off.

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