

Punjab-Haryana High Court

Pran Nath Arora vs Satish Kumar Arora Since Deceasedand ... on 1 July, 2026

[1]

CR-278-2022

(O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-278-2022 (O&M)

Reserved On: 23.04.2026

Date of Pronouncement: 01.07.2026

Uploaded on: 01.07.2026

Pran Nath Arora

...Petitioner

Versus

Satish Kumar Arora (since deceased) through LRS and others

...Respondents

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL Present: Mr. Prateek Sodhi, Advocate, for the petitioner.

Mr. APS Sandhu, Advocate, for respondent No.1. VIKRAM AGGARWAL, J Defendant No.1 (Pran Nath Arora), is in revision against the order dated 22.12.2021 (Annexure P-6) passed by the Court of Additional Civil Judge (Senior Division), Amritsar, whereby an application under [Section 151](#) CPC filed by the said defendant, seeking permission of the Court to examine an expert in defence evidence, was rejected.

2 The plaintiff (Satish Kumar Arora) filed a suit for permanent injunction, restraining defendant No.1 from raising illegal and unauthorized construction of any kind over the property bearing Nos.24 and 24A situated at Green Avenue, Temple Lane, Amritsar (hereinafter referred to as 'the suit CR-278-2022 (O&M) [2] property'). Relief of mandatory injunction, directing defendants No.1 to 3 to demolish the unauthorized construction raised by defendant No.1 over the suit property, was also sought. Alternatively, the plaintiff also sought possession in respect of the portion shown in the green colour in the site plan of the suit property.

2.1 The plaintiff claimed that originally one Kamla Mehra wife of Lalit Chand Mehra, and Varinder Chand Mehra were owners in possession of Plots No.24, 24A and 25, measuring 1702 sq. yards. The said property was sold to Kanchan Arora wife of Jagdish Rai on 09.12.1970. The said Kanchan Arora died leaving behind two legal heirs i.e. her husband Jagdish Kumar alias Jagdish Rai and their son Sanjiv Kumar. 2.2 Jagdish Kumar alias Jagdish Rai executed a registered gift deed dated 6.10.1973 in favour of the plaintiff and defendant No.4 (Sushil Kumar Arora) in respect of the said property to the extent of his half share, measuring 851 sq. yards.

2.3 An oral partition was stated to have taken place between the plaintiff, defendant No.4 and Sanjiv Kumar (son of Kanchan Arora and Jagdish Kumar alias Jagdish Rai). According to the said partition, the plaintiff and defendant No.4 became owners in possession of property bearing No.24A to the extent of 287.9 sq. yards.

2.4 Simultaneously Sanjiv Kumar became owner of the balance area, measuring 279.6 sq. yards of the property bearing CR-278-2022 (O&M) [3] No.24A and 571 sq. yards of the property bearing No.25, total measuring 851 sq. yards.

2.5. The said Sanjiv Kumar sold the aforesaid property measuring 279.6 sq. yards bearing No.24A and 4.14 sq. yards out of the property bearing No.25 to the plaintiff and defendant No.4 by virtue of sale deed dated 20.12.1988 registered on 22.12.1988.

2.6 It was further claimed that Sanjiv Kumar sold the remaining area i.e. 568.46 sq. yards of Plot No.25 to defendant No.1 vide sale deed dated 20.12.1988 registered on 22.12.1988. 2.7 It was, thus, claimed that defendant No.1 became owner of the property measuring 567.46 sq. yards in Plot No.25, Green Avenue, Temple Lane, Amritsar and that he had no right, title or interest of any kind in the suit property.

3. Defendant No.1 contested the aforesaid suit by filing a written statement, taking various preliminary objections regarding maintainability and concealment of material facts by the plaintiff. The factum of ownership of Kamla Mehra and execution of sale deed by her in favour of Kanchan Arora was admitted and so was the factum of execution of gift deed dated 06.10.1973. Further, the factum of execution of sale deed by Sanjiv Kumar was also admitted, but it was averred that the same was for the benefits of all the

three brothers, who were part of the joint Hindu family. Defendant No.1 also raised the plea of a compromise dated 05.07.2004 by and between the parties.

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3.1 The proforma defendants filed their separate written statements.

4. During the pendency of the suit, the plaintiff had expired and vide order dated 30.07.2016 passed by the trial Court, Nitin Arora, one of the legal heirs of the plaintiff, was ordered to be impleaded to represent the estate of plaintiff for the purpose of the suit.

5. On the basis of the pleadings of the parties, issues were framed and evidence commenced.

6. The evidence of the plaintiff was concluded on 09.04.2019 and the case was fixed for defendants' evidence. During the course of the same, some witnesses were recorded after which, the petitioner/defendant No.1 moved an application under [Section 151 CPC](#) (Annexure P-4) on 03.12.2021 for permitting a Handwriting Expert to take photographs of disputed as well as standard signatures of Satish Kumar Arora. It was averred that the petitioner had placed reliance upon a document dated 05.07.2004, which had been produced on record as Ex.PW2/A and had also produced certain sale deeds as Ex.D-2 to D-13. However, the son of Sh. Satish Kumar Arora namely Nitin Arora denied the signatures of his father on these documents during his cross-examination. It was averred that he also denied the signatures on the compromise dated 05.07.2004 in which he had been an attesting witness. It was averred that since the documents were essential for the just decision of the case, and with a view to establish the truth before the Court, the CR-278-2022 (O&M) [5] petitioner wanted to examine a Handwriting Expert in this regard. Under the circumstances, the application was moved.

7. The application was opposed by way of a reply (Annexure P-5). It was averred that since only certified copies of the alleged sale deeds had been filed, the signatures on the same could not be compared. It was also averred that the sale deeds had also not been proved in accordance with law. It was also averred that the petitioner had not disclosed the name of the Handwriting Expert in the application nor had any Handwriting Expert been referred in the list of witnesses. As regards the compromise dated 05.07.2004, it was

averred that the original of the same was lying in some other appeal file and only copy thereof had been produced in the present case and, therefore, the same could not be compared by a Handwriting Expert. Dismissal of the application was, therefore, prayed for.

8. Learned counsel for the parties were heard.

9. Learned counsel for the petitioner-defendant No.1 vehemently argued that it was the plaintiff himself, who had made assertions in the plaint regarding execution of various sale deeds. It was further argued that while filing the written statement, defendant No.1 had asserted the execution of a compromise deed dated 05.07.2004 and other documents. It was further argued that while filing replication to the written statement, the plaintiff did not deny execution of the aforesaid compromise.

9.1 It was further argued that in an earlier litigation i.e., Civil Suit No.392 of 2005 (filed by one Raghav Sadana and CR-278-2022 (O&M) [6] another against plaintiff-Satish Kumar Arora), execution of the compromise deed dated 05.07.2004 was admitted by the plaintiff (Satish Kumar Arora) and he had admitted his signatures on the said document.

9.2. It was further argued that the signatures of the plaintiff were/are available on the plaint and so were/are his signatures available on the documents Ex.D.2 to Ex.D.13. It was further argued that the certified copies of the sale deeds produced and proved on record are public documents and, thus, the application moved by the petitioner ought not have been rejected by the trial Court.

9.3 It was further argued that the standard signatures of the plaintiff having already been available on record (on the plaint) and Exhibit D.1 (written statement filed in the earlier suit), no prejudice would have been caused to the rights of Nitin Arora, one of the legal heirs of the plaintiff, in case the application filed by defendant No.1-petitioner had been allowed by the trial Court.

9.4 It was further argued that the documents Ex.PW2/A having been proved on record by examining the relevant witness(es), there was no occasion for the trial Court to return a finding that comparison of signatures from the photocopies of the documents was not legally permissible. In support of his contentions, learned counsel for the petitioner relied upon the Co-ordinate Benches' judgments of this Court in [Dharam Singh Vs. Labh Singh and others](#), 2017 (3) Law Herald 2257; [Harbans Singh and others Vs. Jagir Singh and others](#), 2006 CR-278-2022 (O&M) [7] (19) RCR (Civil) 122 and [Surjit Rai Vs. Prem Kumar Khara and others](#), 1995(2) PLR 140 and a Single Bench judgment of Telangana and Andhra Pradesh High Court in [Kati Maheswara Rao Vs. Uppati Lalitha and others](#), 2019(5) RCR (Civil) 75 and 9.5. On the other hand, learned counsel for respondent No.1-plaintiff, while defending the impugned order passed by the trial Court, argued that the same does not suffer from any illegality and the application filed by the petitioner was

rightly rejected for the reason that comparison of the signatures of the plaintiff on the photocopies of the documents, cannot be allowed, when the original of the said documents are available. In support of his contentions, learned counsel relied upon a Division Bench judgment of this Court in [Balbir Singh Vs. Bhim Singh](#), 2015(35) RCR (Criminal) 144; a Coordinate Bench judgment of this Court in [Santokh Singh Vs. Jasbir Kaur and others](#), 2023(1) PLR 68 and a Single Bench judgment of Andhra Pradesh High Court in [Kondaveeti Venkata Appa Rao Vs. Kondaveeti Bhaskar](#) (CR-3106-2013 decided on 02.08.2013).

9.6 It was also argued that after the death of the plaintiff on 03.12.2015, his legal heir (Nitin Arora) was ordered to be impleaded to represent the estate of the plaintiff for the purposes of civil suit vide order dated 30.07.2016. It was further argued that thereafter, the plaintiff led his evidence inasmuch as Nitin Arora had been examined. The evidence of the plaintiff was concluded on 09.04.2019. Thereafter, the defendants started CR-278-2022 (O&M) [8] leading his evidence and it was only on 12.11.2021, the petitioner had moved an application, seeking permission to examine an expert in the defence. It was further argued that the suit was filed in the year 2012 and moving of such an application in the year 2021 by the petitioner, clearly indicated that the sole intention on his part was to delay the adjudication of the proceedings.

10. I have considered the submissions made by learned counsel for the parties.

11. At the very outset, it may be noticed that the application, seeking permission to examine an expert in the defence was moved by the petitioner on 12.11.2021. The same was dismissed by the trial Court on 22.12.2021. When the instant petition came up for motion hearing before a Co-ordinate Bench on 04.02.2022, while issuing notice of motion, further proceedings before the trial Court, were stayed. Since then the interim order continues to operate.

12. The only point for determination in the instant revision petition is whether the petitioner can be allowed to examine an expert in defence evidence.

13. In order to answer the aforesaid point, it would be apposite to refer to the facts of the case. The parties are members of a joint Hindu family. According to the plaintiff, the suit property falls to his share and that of defendant No.4 and, the petitioner (defendant No.1), has no right, title or interest in respect of the said property. In the civil suit, the plaintiff heavily relies upon the sale deed executed in favour of Kanchan Arora, CR-278-2022 (O&M) [9] and after her death, the property having been inherited by her husband Jagdish Kumar alias Jagdish Rai and their son Sanjiv Kumar; execution of the gift deed dated 6.10.1973 and certain other sale deeds. On the other hand, the petitioner relies upon compromise deed dated 05.07.2004 (Ex.PW-2/A), Exhibit D.1 (written statement filed by the plaintiff in the earlier suit), and documents Ex.D-2 to Ex.D-13. It is the case of the petitioner that since in the cross-examination of Nitin Arora, he had denied the signatures

of his father on the aforesaid documents and the compromise deed dated 05.07.2004, the petitioner had moved an application for examining an expert in defence evidence.

14. Concededly, there are certain documents on record that is Exh.PW2/A, Exh.D1 and Exh.D2 to D13, which according to the petitioner, bear the signatures of the plaintiff (late Satish Kumar Arora).

15. In [Dharam Singh's](#) case (supra), a Coordinate Bench held that photocopy of a document can be subject to expert opinion if the signatures/thumb impressions appearing on the said document are apparent. It was further held that the best evidence available with the party cannot be shut out on the preposterous plea that the comparison cannot be made on the basis of the photocopy of the document.

16. In [Harbans Singh's](#) case (supra), while relying upon the judgment of the Supreme Court in [Jaspal Singh Vs. State of Punjab](#), AIR 1979 Supreme Court 1708, a Coordinate Bench of this Court held that as long as the expert had opined that he could easily compare the ridges of thumb impression to CR-278-2022 (O&M) [10] determine the pattern type, configuration of ridges and the details thereof, there was no impediment in the procedural law to obstruct such evidence to common record. It was held as under :-

"10. It is well settled that science of identifying thumb impression has attained exactitude and it hardly admits of any mistake or doubt. In this regard reliance may be placed on a judgment of the Supreme Court in [Jaspal Singh Vs. State of Punjab](#), AIR 1979 Supreme Court 1708. The best evidence which is available cannot be shut out on the preposterous plea that the depth of the thumb impression on a photocopied document could not be fathomed or that such a petition is not maintainable under [Section 115](#) of the Code. In the peculiar facts and circumstances of the case when serious allegations inspiring some credibility have been made then prayer made by the plaintiff-petitioners cannot be brushed aside on such grounds, especially when the expert has expressed a categorical opinion that comparison on the photocopy has been made possible by modern photocopying machines and a good photocopy is as good as the original. As long as the expert has opined that he can easily compare the ridges of thumb impression to determine the pattern type, configuration of ridges and the details thereof, there is no impediment in the procedural law to obstruct such evidence to come on record. Therefore, in my view, the application filed by the plaintiff- petitioners deserves to be allowed."

17. Reverting to the facts of the case, certain documents were produced in evidence by the plaintiff and the defendants. No doubt, they were not originals but were certified copies. It had also come on record that the original of the compromise CR-278-2022 (O&M) [11] dated 05.07.2004 was attached in the file of some other appeal. The same could have been requisitioned had the need arisen. Still further, it would have been for the expert to decide as to whether comparison could be made from certified copies or not. It is well known that experts tend to lean in favour of the parties which engage

them. However, their opinion is always subject to cross-examination and the decision of the Court. The trial Court should not have shut out the case of the petitioner only on the ground that the copies were not originals and it should have left the same to the decision of the expert. The final decision, in any case was with the Court. This Court is in complete agreement with the decision of Coordinate Benches of this Court in [Dharam Singh's](#) case and [Harbans Singh's](#) case. I have also perused the judgments relied upon by learned counsel for the respondents. The judgment of the Division Bench in [Balbir Singh Vs. Bhim Singh and others](#) was in an appeal against acquittal. In that case the standard and disputed thumb impression on a sale deed and a photostat of a will had been compared. The Division Bench held that no reason had been furnished for not submitting the original will for taking the standard thumb impressions and only if the said document was not available then secondary evidence in accordance with law could have been produced. This judgment would not come to the aid of the respondent because here the expert is yet to be examined. As observed by this Court, the final decision would be taken after the report of the expert and the mere examination of the expert could not have been and should not have been declined. The CR-278-2022 (O&M) [12] other judgments would also not come to the aid of the respondents, being distinguishable on facts.

18. In view of the above, the present petition is allowed. The impugned order dated 12.12.2021 passed by the trial Court is set aside. The petitioner is permitted to examine an expert in defence as regards the signatures of the plaintiff (Satish Kumar Arora) with his standard signatures, in accordance with law.

(VIKRAM AGGARWAL) JUDGE 01.07.2026 ds/Mani Kumar Whether speaking/reasoned : Yes/No Whether reportable : Yes/No