

(2025) 11 MP CK 1989

In the Madhya Pradesh High Court, Jabalpur Bench

Case No : Miscellaneous Petition No. 6341 Of 2025

Prem Chandra Rai

APPELLANT

Vs

M/S Bru Hotels And Resort Private Limited And Ors Through
Its Director Arun Yadav And Others

RESPONDENT

Date of Decision : 12-11-2025

Acts Referred:

Constitution Of India, 1950 — Article 227
Code Of Civil Procedure, 1908 — Section 96, 151, Order 7 Rule 14(3)
Evidence Act, 1872 — Section 45

Citation : (2025) 11 MP CK 1989

Hon'ble Judges : Vivek Jain, J

Bench : Single Bench

Advocate : Shreyas Dharmadhikari, Teerthesh Bharilya

Final Decision : Dismissed

Judgement

Vivek Jain, J

1. By way of this petition filed under Article 227 of Constitution of India challenge is made to order dated 13.10.2025 Annexure P/1 whereby allowing the application of plaintiff under Order 7 Rule 14 (3) C.P.C., the Trial Court has permitted to take on record the handwriting expert report of one Shri Sanjay Yadav, a private handwriting expert.

2. The Counsel for the petitioner has vehemently criticized the said order by submitting that initially the suit had been dismissed, but later on, in appeal under Section 96 C.P.C., the matter was remanded back by the Appellate Court vide judgment dated 30.08.2024 (Annexure P/5), on the grounds that the Trial Court should get a Handwriting Expert Report called and then should decide the suit afresh.

3. Thereafter, in pursuance to judgment of the Appellate Court, the Trial Court again took up the suit for fresh decision and then the plaintiff declared his

evidence closed on 06-11-2024. It is contended by Counsel for the petitioner that once the plaintiff had declared his evidence closed on 06-11-2024, thereafter the Trial Court could not have allowed the application of the plaintiff by holding in the impugned order that the plaintiff's evidence is not yet closed. It is argued that the impugned order is based on incorrect facts and irrelevant considerations. It is further contended that the Trial Court even otherwise could not have allowed the report of a private examiner to be placed on record and the Trial Court has erred in permitting the said report to be placed on record because earlier on 13-11-2024, the Trial Court had noted that the defendants have objection to the same person Sanjay Yadav acting as examiner of questioned document and then had directed independent examiner i.e. the examiner of State Government to examine the questioned document after hearing the objections of the rival parties.

4. It is argued that once the report of Government examiner was on record, the Trial Court could not have permitted the report of private examiner to be placed on record particularly when the plaintiff's evidence had already been closed and it would amount to opening a Pandora's box and initiate a unlimited and unending exercise.

5. Heard.

6. From a perusal of the document placed on record, it is evident that upon remand when the Trial Court took up the matter, on 06-11-2024 the plaintiff's evidence was declared closed and the matter was fixed for additional evidence of defendant after remand.

7. On 13-11-2024, the defendant stated that he also does not want to give any additional evidence and the Court then took up the issue of hand writing expert and noted that both the sides are relying on names of different persons as hand writing expert and therefore the Trial Court directed that the hand writing expert of the State Government should examine these documents. This order was passed on 21-11-2024 and then the report was received on 26.06.2025 by the trial Court.

8 . The report was considered on 04-07-2025 and the Trial Court consciously fixed the case agains for the plaintiff's evidence which was in view of the handwriting report received from the State Examiner of questioned documents, which is admittedly against the plaintiff. The plaintiff therefore got a handwriting expert's opinion from Sanjay Yadav on whom he had earlier relied upon and then prayed before the Trial Court to place the said report on record by filing application under Order 7 Rule 14(3) CPC which has been allowed by the Trial Court. The report of handwriting expert is only an opinion under Section 45 of Indian Evidence Act and corresponding provisions of BSA-2023. The Trial Court is not bound by the report of such expert and if the plaintiff in order to demolish the report of State Examiner had wanted to place on record another report of some private examiner only so as to bring a different opinion on record, it would

be for assistance of the Trial Court at the time of final adjudication of the suit and only taking the said contradictory report on record, it cannot be stated to be an act which finally adjudicates the rights of the present petitioner/defendant No. 4.

9. It has been held by this Court in *Chenram Vs. Banshilal*, 2017 (3) MPLJ 592, that such second handwriting expert's report can be taken on record, by holding as under :-

"..... The present dispute is related to seeking and filing of an opinion of an expert which is admissible in evidence under section 45 of the Indian Evidence Act. If report of a particular expert, is against the interest of opposite party, on request, such opposite party also deserves to be permitted to call such report in rebuttal. No doubt some times cross examination of the expert concerned with the help of another expert, may serve the purpose, but not always. Even on the principle of natural justice, party ought not to and cannot be denied an opportunity of the similar nature."

10. In *Nandu @ Gandharva Singh Vs. Ratiram Yadav* (2019 (3) MPLJ 296) it was held in paragraph-14 as under :-

14. It is undisputed fact that the application filed by the respondent No. 1 for getting thumb impression on the agreement examined from the handwriting expert was allowed by the trial Court and accordingly, the report of the handwriting expert has been placed on record. Under these circumstances, this Court is of the considered opinion that the trial Court cannot take away the right of the petitioner\defendant to produce the report of the handwriting expert in rebuttal of the report of the handwriting expert filed by the respondent No. 1/plaintiff. Thus, in the light of the judgment passed by the Division Bench of this Court in the case of *Usha Sharma* (supra), this Court is of the considered opinion that the order dated 6-12-2017, so far as it relates to rejection of application under section 151 of Civil Procedure Code, is hereby set aside. Accordingly, the application filed by the petitioner under section 151 of Civil Procedure Code for producing his report of the handwriting expert in rebuttal of the report of the handwriting expert filed by the respondent No. 1/plaintiff is allowed. The trial Court is directed to proceed further in accordance with law. The interim order dated 19-1-2018 is hereby recalled.

11. This Court therefore does not find any error in the order impugned passed by the Trial Court dated 13.10.2025, taking on record the report of private examiner. It is made clear that the Trial Court would not be bound by the said report and taking the said report on record would only result in placing an opinion before the Trial Court, and nothing else. The petitioners would be at liberty to raise all the objections in respect to the report of the private examiner which are available to the petitioners by law, and the same are kept open and this Court has not expressed any opinion on the same nor has curtailed rights of the present petitioners to raise such objections before the Trial Courts at appropriate stage.

12. With the aforesaid observation, the petition is dismissed.