

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CMPMO No.773/2025

Date of Decision: 24th December, 2025.

Ram Lal

.....Petitioner

Versus

Radha Swami Satsang Beas

...Respondent

Coram

The Hon'ble Mr. Justice Bipin Chander Negi, Judge.

Whether approved for reporting?¹

For the Petitioner: Ms. Devyani Sharma, Sr. Advocate with
Mr. Anirudh Sharma, Advocate.

For the Respondent: Mr. Lalit Kumar Sehgal, Advocate.

Bipin Chander Negi, Judge (oral).

The present petition has been preferred against the impugned order dated 21.11.2025, passed by the learned Senior Civil Judge Court No.1, Paonta Sahib, District Sirmaur, HP, whereby the present respondent/plaintiff has been permitted to lead rebuttal evidence, in order to prove the authorization letter issued in favour of one Sh. Amar Singh, authorizing him to file the plaint in the case at hand on behalf of the present respondent/plaintiff.

2. Heard counsel for the petitioner and perused the impugned order and the documents appended along with the present petition.

3. Issues in the case at hand have been placed on record as Annexure P-3 (placed at page 27 of the paper book). For the purpose of the present petition, Issue No.3,

which pertain to the maintainability of the suit filed by the respondent is relevant. The same reads as follows:-

"Issue No.3 Whether the suit is not maintainable? OPD."

4. The onus of proving the same at the trial lay upon the petitioner/defendant, as is evident from the issues framed qua the same.

5. Order XVIII Rule 3 CPC is a specific provision dealing with the manner in which evidence is to be examined by the parties. For ready reference this provision is extracted hereinbelow:-

"3. Evidence where several issues.-- *Where there are several issues, the burden of proving some of which lies on the other party, the party beginning may, at his option, either produce his evidence on those issues or reserve it by way of answer to the evidence produced by the other party; and, in the latter case, the party beginning may produce evidence on those issues after the other party has produced all his evidence, and the other party may then reply specially on the evidence so produced by the party beginning; but the party beginning will then be entitled to reply generally on the whole case."*

6. The same has been interpreted in the following manner in ***AIR 2011 Himachal Pradesh 39, titled Neelam Rai Vs. Surjit Kumar and Ors.*** (CMPMO No.467 of 2010). The relevant extract is reproduced herein below:-

"15. *It would be pertinent to deal with the phrase relied upon by the respondent that the "party beginning will be entitled to reply generally on the whole case."* In case Order 18, Rule 3 of the CPC is read as a whole, it is obvious that when several issues are framed normally it would be the plaintiff who would lead evidence if onus to prove certain factual issues has been placed on the plaintiff. Therefore, instead of the word 'party beginning' I am reading in this sub rule the word 'plaintiff' and instead of the word 'other party', the word 'defendant'. Therefore, where there are several issues, onus to prove some of which is on the plaintiffs and of some on the defendants and the plaintiff leads evidence only on the issues, the onus to prove which is on him, then he can reserve his right to lead rebuttal evidence on the issues, onus to prove which is on the defendant. Thereafter, the defendant would be required to lead evidence on all issues and then the plaintiff would have the right to lead evidence in rebuttal only on those issues, the onus to prove which was on the defendant. This is obvious from the words used in this rule that in the latter case the party beginning may produce evidence on those issues after the other party has produced its own evidence. It is only when the defendant is again given a right to lead evidence either by way of additional evidence or otherwise, i.e., in case of a counter claim to lead further evidence that the plaintiff would get a right to lead rebuttal evidence again and it is only in this eventuality that the plaintiff can reply generally on the whole case.

7. The contention of the learned Senior Counsel for the petitioner/defendant is that insofar as Issue No.3 is concerned, no evidence in the negative can be led. When

she was pointedly asked, as to whether any evidence has been led on Issue No.3, she refrained from saying that no evidence had been led, insofar as issue No.3 is concerned, thereby tacitly admitting that some evidence on issue No.3 had been led by the petitioner/defendant.

8. In the aforesaid backdrop, the further contention that when no evidence has been led by the petitioner/defendant, then no opportunity to rebut can be afforded to the present respondent/plaintiff is meaningless. Reliance placed upon **2005 (1) SLC 361** and **AIR 2011 HP 39** is also misplaced.

9. Insofar as **2005 (1) SLC 361** is concerned, it is a case wherein on the issues on which burden was laid on the party, no evidence had been led and hence, rebuttal evidence was denied to be led, on such an issue to the other party. The same is not the case in hand, as some evidence on issue No.3 has been led by the petitioner/defendant. Similarly, insofar as **AIR 2011 HP 39** is concerned, the same is also not relevant in the case at hand, as therein the matter was remanded back to the trial Court to consider the issue of leading rebuttal evidence, post-examining as to whether the party on whom the burden was placed had led any evidence. Hence, the same has also no relevance in the case at hand.

10. In the case at hand all that is sought to be proved in rebuttal by the present respondent/plaintiff is the authorization granted to one Sh. Amar Singh, authorized signatory of the respondent/plaintiff, to file the suit in the case at hand. Non-proving of the authorization letter would ensure that the suit filed by the respondent/plaintiff shall fail on a technicality. The suit filed on behalf of the Society should not be permitted to be defeated on a mere technicality. Procedural defects, which do not go to the root of the matter, should not defeat a cause. Substantive rights should not be allowed to be defeated on account of procedural irregularity, which is curable. In this context, it would be appropriate to refer to **1996 (6) SCC 660, titled *United Bank of India Vs. Naresh Kumar and Ors.***, wherein suit filed was dismissed, as authorization to file the same had not been proved before the learned trial Court. Appeal preferred therefrom before the First Appellate Court and Second Appeal were also dismissed. However, the Apex Court holding the defect to be curable held that from the facts and attending circumstances of each case implied ratification to filing the suit can always be determined. Other than the aforesaid, Apex Court was of the view that the First Appellate Court and the High Court could have always permitted filing of additional

evidence in this respect, in terms of Order 41 Rule 27(I)(b) CPC. The relevant extract is being reproduced herein below:-

"8. In this appeal, therefore, the only question which arises for consideration is whether the plaint was duly signed and verified by a competent person.

9. In cases like the present where suits are instituted or defended on behalf of a public corporation, public interest should not be permitted to be defeated on a mere technicality. Procedural defects which do not go to the root of the matter should not be permitted to defeat a just cause. There is sufficient power in the Courts, under the Code of Civil Procedure, to ensure that injustice is not done to any party who has a just case. As far as possible a substantive right should not be allowed to be defeated on account of a procedural irregularity which is curable.

10. It cannot be disputed that a company like the appellant can sue and be sued in its own name. Under Order 6 Rule 14 of the Code of Civil Procedure a pleading is required to be signed by the party and its pleader, if any. As a company is a juristic entity it is obvious that some person has to sign the pleadings on behalf of the company. Order 29 Rule 1 of the Code of Civil Procedure, therefore, provides that in a suit by against a corporation the Secretary or any Director or other Principal officer of the corporation who is able to depose to the facts of the case might sign and verify on behalf of the company. Reading Order 6 Rule 14 together with Order 29 Rule 1 of the Code of Civil Procedure it would appear that even in the absence of any formal letter of authority or power of attorney having been executed a person referred to in Rule 1 of Order 29 can, by virtue

of the office which he holds, sign and verify the pleadings on behalf of the corporation. In addition thereto and de hors Order 29 Rule 1 of the Code of Civil Procedure, as a company is a juristic entity, it can duly authorise any person to sign the plaint or the written statement on its behalf and this would be regarded as sufficient compliance with the provisions of Order 6 Rule 14 of the Code of Civil Procedure. A person may be expressly authorised to sign the pleadings on behalf of the company, for example by the Board of Directors passing a resolution to that effect or by a power of attorney being executed in favour of any individual. In absence thereof and in cases where pleadings have been signed by one of its officers a Corporation can ratify the said action of its officer in signing the pleadings. Such ratification can be express or implied. The Court can, on the basis of the evidence on record, and after taking all the circumstances of the case, specially with regard to the conduct of the trial, come to the conclusion that the corporation had ratified the act of signing of the pleading by its officer.

11. The courts below could have held that Sh. L.K. Rohatgi must have been empowered to sign the plaint on behalf of the appellant. In the alternative it would have been legitimate to hold that the manner in which the suit was conducted showed that the appellant bank must have ratified the action of Sh. L.K. Rohatgi in signing the plaint. If, for any reason whatsoever, the courts below were still unable to come to this conclusion, then either of the appellate courts ought to have exercised their jurisdiction under Order 41 Rule 27 (1) (b) of the Code of Civil Procedure and should have directed a proper power of attorney to be produced or they could have ordered Sh. L.K. Rohatgi or any other

competent person to be examined as a witness in order to prove ratification or the authority of Sh. L.K. Rohatgi to sign the plaint. Such a power should be exercised by a court in order to ensure that injustice is not done by rejection of a genuine claim.

12. The Courts below having come to a conclusion that money had been taken by respondent no.1 and that respondent no.2 and husband of respondent no.3 had stood as guarantors and that the claim of the appellant was justified it will be a travesty of justice if the appellant is to be non suited for a technical reason which does not go to the root of the matter. The suit did not suffer from any jurisdictional infirmity and the only defect which was alleged on behalf of the respondents was one which was curable.

13. The court had to be satisfied that Sh. L.K. Rohatgi could sign the plaint on behalf of the appellant. The suit had been filed in the name of the appellant company; full amount of court fee had been paid by the appellant bank; documentary as well as oral evidence had been led on behalf of the appellant and the trial of the suit before the Sub Judge, Ambala, had continued for about two years. It is difficult, in these circumstances, even to presume that the suit had been filed and tried without the appellant having authorised the institution of the same. The only reasonable conclusion which we can come to is that Sh. L.K. Rohatgi must have been authorised to sign the plaint and, in any case, it must be held that the appellant had ratified the action of Sh. L.K. Rohatgi in signing the plaint and thereafter it continued with the suit."

11. In the aforesaid backdrop plus the fact that the onus insofar as issue No.3 is concerned, lay upon the

petitioner/defendant and the fact that post-leading evidence, the present respondent/plaintiff had closed is evidence in the affirmative, therefore, the right to lead evidence in rebuttal had been reserved, no fault can be found with the learned trial Court.

12. I see no valid reason to interfere with the impugned order, therefore, the present petition is dismissed being devoid of merit, so also the miscellaneous pending applications, if any.

(Bipin Chander Negi)
Judge

24th December, 2025
(Gaurav Rawat)