

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

Civil Revision No.112 of 2015

Date of Decision:-15.01.2015

Gian Singh through his LRs Harbans Kaur & Ors.

.....Petitioners.

Versus

Sant Singh & Ors.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. Arvind Singh, Advocate for the Petitioners.

JASWANT SINGH, J.(ORAL)

LRs of Gian Singh-plaintiff are in revision aggrieved against the order dated 17.12.2014 (**P-7**), passed by the learned Addl. Civil Judge (Sr. Divn.), Rajpura whereby their application to lead evidence in rebuttal has been dismissed.

Learned Counsel for the petitioners has argued that a perusal of the record reveals that the onus to prove issue nos.3 to 8 was upon the defendants and after they had lead their evidence, the plaintiff should have been granted an opportunity to lead his evidence in rebuttal and, therefore, the impugned order (**P-7**) is liable to be set aside.

After hearing learned Counsel for the petitioner and perusing the paper book, this Court is of the considered view that the present petition is devoid of any merit and the same deserves to be dismissed.

It is apparent from the record that the issues nos.3 to 8 are only formal in nature whose onus was upon the defendants. The major issues are issue nos.1 & 2:-

- (i) *Whether the plaintiff is entitled to declaration as prayed for?OPP.*
- (ii) *Whether the plaintiff is entitled to permanent injunction as prayed for?OPP.*

The onus to prove these issues was upon the plaintiffs and plaintiffs had to lead their evidence in affirmative and cannot be permitted to fill up their lacunae by leading evidence in rebuttal.

In view of the above, finding no merit in the present revision petition, the same is hereby dismissed.

(JASWANT SINGH)
JUDGE

January 15, 2015
Vinay/Gagan