

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R. No.1406 of 2015

Date of Decision.10.03.2015

Jasbir Singh

.....Petitioner

Versus

Rajiv Kumar son of Sh. Gulzar Singh

.....Respondent

Present: Mr. R.S. Mamli, Advocate
for the petitioners.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

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K. KANNAN J. (ORAL)

1. The revision petition is against the rejection of the plaintiff's move for letting in alleged rebuttal evidence with reference to an application which the plaintiff relies on after his evidence was closed and the defendant's evidence was closed. It is a suit by the plaintiff complaining of encroachment by the defendant who is his brother and the contention is that the defendant has caused the encroachment to be made during his absence and raised a construction. A person suing for ejectment complaining of an encroachment takes a burden on himself to establish the same by bringing positive evidence with reference to the averments which he has made. If the defendant gives evidence contesting the plaintiff's claim, the oral evidence must stop there and case must only be taken up for arguments. There is no scope for offering a rebuttal to an evidence which is merely in the denial of what the plaintiff affirms in respect of an issue on which the burden lies only

on the plaintiff. If the trial court has found that there was no justification for letting in the rebuttal evidence, for, there is no right of such rebuttal, I will find no fault for making any intervention in that regard.

2. The issue relating to trial of whether evidence will be permitted or not must stop with the trial Court's expression and if any person is aggrieved by such interim direction at the time of trial, the party who is aggrieved will cite that as a ground of appeal when such an appeal is filed if the ultimate decision ends in a rendition of judgment which is against the party. No substantial prejudice could, therefore, be caused even if the plaintiff were to contend that the Court should have exercised the discretion to allow for the evidence to be brought as additional evidence if not as rebuttal evidence. I do not find anything illegal about the order for interference under Article 227.

3. The revision petition is dismissed.

(K. KANNAN)
JUDGE

March 10, 2015
Pankaj*