

**THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CR No. 1495 of 2015 (O&M)
Date of decision: March 2, 2015

Biru Ram and others

...Petitioners

Versus

Roshan Lal and others

...Respondents

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?

Present: Mr. Arvinder Arora, Advocate,
for the petitioners.

K. KANNAN, J. (Oral)

1. The petitioners are the defendants in the suit, facing an action for ejectment and they have a grievance that the plaintiffs have closed their evidence and after the defendants have given evidence particularly making reference to the fact that the defendants' predecessors never executed the alleged rent deed in favour of the plaintiffs in the manner contended by the plaintiffs and that further their predecessors never affixed signatures and used to only thumb mark documents. This is in context of the plaintiffs who had filed the suit contending that the defendants' predecessor executed the rent deed in favour of the plaintiffs and that the defendants continuing in possession was not any way authorized. This was also to explain that the defendants' predecessor had admitted the plaintiffs' title and entered into a rent agreement.

2. After the defendants' side was closed, the plaintiffs had filed an

application for rebuttal evidence to lend support to their plea that the defendants' predecessor executed a rent deed in favour of the plaintiffs.

3. The counsel would refer to two decision of this court which have held that a right of rebuttal must be reserved by the party and if a side is closed without reserving such a right, it cannot be exercised subsequently: viz; in Smt. Jaswant Kaur and another V. Devinder Singh and others AIR 1983 Punjab & Haryana 210 (1) and Surjit Singh and others Vs. Jagtar Singh and others 2007 (1) R.C.R. (Civil) 537. The Division Bench was holding that liberal construction be given to the procedural provisions to avoid unnecessary technical obstacles. The court was reiterating the law laid down that the right of rebuttal could well be taken before the other party begins evidence and the party will not be permitted to lead evidence on the issue on which the burden of proof was on that party.

4. Even while holding that a right of rebuttal can never be a matter which could be exercised without reserving for such evidence, if the trial court had allowed for such an exercise, the prejudice that the petitioner can be put to could be neutralized by allowing for the petitioners an opportunity to offer their own rebuttal again if they so chooses. We must evolve a discipline at the trial to allow for its smooth progress without stalling such course at every turn. The practice to challenge the interim order during the trial must be stopped. This is necessitated to the present malady of prolonged trials and huge accumulation of arrears in the High Court for intervention to non-consequential order. If there is any exercise made by the Presiding Officer that can cause serious prejudice and deprive the party of securing justice, there would surely be an occasion for intervention. I may observe that not all is lost and now what the plaintiffs seek to prove

will not be seriously prejudice the petitioners at all if they have a liberty to offer their own evidence in the manner above. I make no intervention. I dismiss the revision petition with the observation for the trial court to admit the petitioners/defendants any further evidence if they so choose to do after the plaintiffs' side is closed.

March 2, 2015
prem

(K.KANNAN)
JUDGE