

CR-1679-2015 (O&M)

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

**CR-1679-2015 (O&M).
Decided on: April 9, 2015.**

Gurcharan Singh

..... Petitioner(s)

Versus

**Assistant Registrar, The Ropar Central Cooperative Society Ltd.,
Ropar and others**

..... Respondent(s)

*** * ***

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

**PRESENT Mr.R.K.Sharma, Advocate,
for the petitioner.**

M.M.S. BEDI, J (ORAL)

Misc. application is allowed.

Documents are permitted to be taken on record.

Vide impugned order dated 21.1.2015, the application filed by the petitioner for permission to produce evidence by summoning the witnesses i.e., official from the office of Audit Officer, Cooperative Societies, Ropar; Kulwant Singh, Retired Auditor of Cooperative Societies; Sukhjinder Pal Singh Secretary, the Dulchimajra CASS, Dulchimajra, District Ropar; concerned official from the Record Room of Civil Judge (Sr., Divn.), Ropar along with case file State Vs. Gurcharan Singh and concerned official, Ropar Central Cooperative Bank Ropar along with record of accounts of the member of the Dulchi Majra CASS, Dulchi Majra, has been dismissed on the ground that during rebuttal evidence the plaintiff

CR-1679-2015 (O&M)

cannot be given an opportunity to lead affirmative evidence.

With the assistance of counsel for the petitioner, I have gone through the pleadings and considered the stage of the suit. The plaintiff- petitioner has filed a suit for declaration challenging the validity of arbitration proceedings, award and notice etc., passed / issued by Assistant Registrar, Central Cooperative Societies, and Registrar of the Cooperative Societies etc.

Following issues have been framed on the basis of pleadings by the trial Court: -

1. *Whether plaintiff is entitled to the declaration prayed for? OPP*
2. *Whether plaintiff is entitled to the permanent injunction prayed for? OPP*
3. *Whether suit is not maintainable in the present form ? OPP*
4. *Whether suit is liable to be dismissed for want of notice under Section 79 of the Punjab Cooperative Societies Act? OPD*
5. *Whether jurisdiction of civil Court is barred under Section 82 of the Punjab Cooperative Societies Act? OPD*
6. *Whether suit is bad for mis-joinder and non-joinder of necessary parties? OPD*
7. *Whether suit is barred under Order 2 Rule 2 CPC? OPD*
8. *Relief.*

It is pertinent to mention that the Cooperative Societies and the officials were proceeded ex parte and the suit is

CR-1679-2015 (O&M)

being contested only by one Charan Singh defendant No.6. A perusal of the issues indicate that issue Nos.4, 5, 6 & 7 are issues on which rebuttal evidence could have been produced. Since only Charan Singh appeared as a witness to contest the claim of the plaintiff-petitioner, the plaintiff- petitioner was required to lead evidence on above issue Nos.4,5, 6 & 7. The application for summoning five witnesses above mentioned are sought to be examined to prove the case of the plaintiff- petitioner in affirmative. The trial Court has rightly dismissed the application refusing to permit the plaintiff to lead evidence in affirmative at the stage of rebuttal evidence. Besides this, after hearing the counsel for the petitioner, the witnesses sought to be examined seem to be not relevant for the rebuttal of issues.

Counsel for the petitioner has also argued that certain documents had been put to the defendant when he appeared as a witness and stand admitted. The above said circumstance is not sufficient enough to permit the petitioner to produce evidence to fill in lacunae at the stage of rebuttal evidence. The plaintiff- petitioner could have sought benefit of Order XI Rules 12 and 14 and Order XII Rules 2 & 3 of CPC.

There is no ground to permit the petitioner to produce evidence in the shape of documents, at this stage, especially when he has neither relied upon the evidence and documents nor produced the same at the time of filing of suit as per the provisions of Order XIII CPC.

CR-1679-2015 (O&M)

The petition is dismissed without prejudice to other
rights of the petitioner.

April 9, 2015.
rka

(M.M.S. BEDI)
JUDGE