

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

**CR No.1924 of 2013 (O&M)
Date of decision: 11.12.2015**

Gurmukh Singh

... Petitioner

versus

Surinder Singh and others

.... Respondent

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. D.K. Bhatti, Advocate for the petitioner.

Mr. A.S. Gill, Advocate for respondent No. 1.

K.Kannan, J.

In a suit for injunction, the issue of identification of the property through demarcation of the land became essential by the defence taken by the defendant. It would appear that the plaintiff had given his evidence and had closed his side in the year 2011 and the defendant had also examined himself. The plaintiff was trying to bring an additional evidence/rebuttal evidence to the stand taken by the defendant at the time of trial during cross-examination that there was no compromise between the parties and that there would be fresh demarcation done when the appeal against an interim order of injunction was pending before the Appellate Court, in the manner suggested by the plaintiff. The defendant denied the memorandum and even the signature of the Advocate which was purported to be there in the document. In such a situation, the plaintiff had sought for proving that there had been indeed a demarcation done pursuant to an understanding between the parties at the Appellate Court.

Counsel for the respondent states that the suit had been filed in the year 2006 and after the plaintiff side was closed, after

giving adequate and several opportunities to prove his possession and, there remained nothing for rebuttal for the plaintiff.

In a suit for injunction, the plaintiff was required to prove his own possession and if the plaintiff had given evidence about his possession under normal circumstances there will be no further evidence for rebuttal. However in this case, the plaintiff was trying to rely upon an event said to have taken place during the pendency of the appeal after the interim order in suit. The event of compromise that was alleged to have led to a fresh demarcation was denied by the defendant and therefore it became necessary for the plaintiff to prove the assertion that the report that was prepared as an essential piece of evidence. If it were to be contended that there was no scope for rebuttal, I would allow in the interest of justice, the opportunity to the plaintiff to bring the additional evidence and leaving it to the defendant to deny the same with yet another opportunity to give his own evidence.

The impugned order is set aside and the revision petition is allowed on the above terms.

(K.KANNAN)
JUDGE

11.12.2015
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