

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.2240 of 2015
Date of Decision : 31.03.2015.

Lok Ram @ Lok Nath

....Petitioner

Versus

Anarkali and others

....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. C.M. Munjal, Advocate,
for the petitioner.

SABINA, J

Petitioner has filed this petition challenging the order dated 21.03.2015 whereby application moved by the petitioner to lead rebuttal evidence, was dismissed.

Petitioner along with others have filed suit for declaration to the effect that they were owners in possession of the suit land along with the defendants to the extent of their share.

On the pleadings of the parties following issues were framed by the trial court:-

“(i) Whether the defendants be restrained not to sale, gift, mortgage the suit land as mentioned in the Head note of the plaint and the mutation no.2632 also entered and sanctioned in favour of the plaintiffs and defendants?OPP

(ii) Whether the present suit is not maintainable in the present form?OPD

- (iii) *Whether the plaintiff has no cause of action and locus standi to file the present suit?OPD*
- (iv) *Whether the present suit is time barred?OPD*
- (v) *Relief.”*

Now the case is listed before the trial court for rebuttal evidence. At this stage, plaintiffs moved an application to lead evidence in rebuttal. Trial court rightly dismissed the application moved by the petitioner-plaintiffs to lead evidence in rebuttal as they could only lead evidence in rebuttal qua issues no.2 to 4 and not qua issue no.1. So far as issue no.1 is concerned, plaintiffs could have lead evidence in their affirmative as the onus to prove this issue was on the plaintiffs. So far as issues no.2 to 4 are concerned, they are legal issues. Petitioner was required to lead evidence in their affirmative to establish that they were legal heirs of deceased Ram Dev. However, plaintiffs while leading their evidence in rebuttal could not be allowed to lead evidence which were required to be led by them in affirmative.

In these circumstances, the impugned order calls for no interference.
Dismissed.

(SABINA)
JUDGE

March 31, 2015
prince rana