

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

Civil Revision No.2759 of 2014

Date of decision:30.10.2015

Smt. Pushap Lata

... Petitioner

versus

Mohinder Ram

.... Respondent

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Rakesh Gupta, Advocate,
for the petitioner.

Mr. Vineet Chaudhary, Advocate,
for the respondent.

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 ?

K.Kannan, J. (*Oral*)

1. The plaintiff, who sought for declaration that the property was in possession and the revenue entry standing in his name originally was to be affirmed and the modification made in the name of the defendant was illegal, void and not binding, gave evidence with reference to his alleged possession. The defendant examined himself and also filed a report, prepared by the public authorities after local inspection, and sought to contend that the entry made recording the defendant as a party in possession was done in accordance with law. The plaintiff sought to give evidence

afresh to elicit from one of the persons stated to be witnesses in the report that the report was prepared in his absence and his signature has been taken on blank papers. The defendant opposed the plaintiff's prayer for tendering rebuttal evidence by referring to the fact that the burden of proof of establishing the plaintiff's possession and for showing the entries in the name of the defendant as illegal, null and void was only on the plaintiff and if the plaintiff had closed his side and the defendant had brought positive evidence about his possession and the findings in the report, the plaintiff will have no further right to offer rebuttal evidence. The trial court allowed for the rebuttal evidence to be given and the defendant is the party aggrieved in revision before this court.

2. The argument by the learned counsel for the revision petitioner is that rebuttal evidence will be permitted only in cases where the burden of proof was on the opposite side and the evidence is to be tendered to rebut the evidence offered by the adversary. If, in this case, the burden was only on the plaintiff, the plaintiff was bound to give evidence in affirmative and cannot get a right of rebuttal and reliance of a judgment of Division Bench of this court in **Surjit Singh and others Versus Jagar Singh and others-2007(1) RCR (Civil) 537** to bring support to his arguments. At the previous hearing, I wanted to know the line of cross-examination adopted by the plaintiff to the defendant's witness which reference to the report.

The plaintiff seems to have adopted the stand that the report was prepared by the false witnesses and the attempt now was to state that the witnesses had signed on blank paper and was bringing a new case which was not supported by the initial stand of the plaintiff. While I would notice that there is a thin line on a subject for which rebuttal evidence can be given in this case, I notice that during the pendency of revision, on orders of this court, the plaintiff has also brought the evidence of the said witness in court and he has been cross-examined. On pure issues of efficacy, I will not annul the evidence already taken on record but leave it to the defendant to mount an objection as regards the admissibility of such evidence at the time of arguments. The court will consider whether the plaintiff was competent to completely deny the fact that the witness did not know what the report contained and that he had signed only on blank papers. The court will also consider the submissions in the light of evidence and take an appropriate decision along with all other contentious issues. The impugned order passed is maintained but subject to the observations made above.

3. Civil revision is ordered on the above terms.

(K.KANNAN)
JUDGE

30.10.2015
sanjeev