

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

**Civil Revision No.3577 of 2014 (O&M)  
Date of Decision: September 03, 2015**

**Balbir**

**.... Petitioner**

**vs.**

**Anil and another**

**.... Respondents**

**CORAM: HON'BLE MR. JUSTICE KULDIP SINGH**

**Present:** Mr. Dalip Kumar Tuteja, Advocate for the petitioner.

Mr. Chanderhas Yadav, Advocate for respondent No.1.

- 1. Whether Reporters of Local Newspapers 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?*

**Kuldip Singh J.(Oral)**

Impugned in the present revision petition is the order dated 04.09.2013 (Annexure P-10) passed by learned Addl. Civil Judge (Sr. Divn.), Jhajjar, vide which the application filed by plaintiff-respondent No.1 was allowed so as to examine handwriting/thumb impression expert in rebuttal evidence after allowing him to take specimen thumb impression of petitioner-defendant No.1 from the thumb impression affixed in the Court at the time of his evidence and the case was adjourned for examination of the said expert in rebuttal evidence. The plaintiff-respondent No.1 was burdened with costs of ₹2,000/- for the delay.

The short facts required to be noticed for the purpose of disposal of the present revision petition are that the plaintiff-

respondent No.1 had filed a suit for specific performance of agreement to sell. In the written statement, petitioner-defendant No.1 denied the agreement. The plaintiff-respondent No.1 led the evidence and thereafter, petitioner-defendant No.1 appeared and in his statement denied his thumb impression on the agreement dated 12.12.1997. Thereafter, the plaintiff-respondent No.1 filed an application for permission to take the specimen thumb impression of petitioner-defendant No.1 or if he failed to appear then get the specimen thumb impression on the statement dated 05.08.2013 compared with the thumb impression on the agreement dated 12.12.1997.

I have heard learned counsel for the parties and have also carefully gone through case file.

A perusal of the facts and circumstances shows that by way of leading the said evidence, the plaintiff-respondent No.1 wants to prove the agreement. The specific issue was framed “as to whether the plaintiff is entitled to decree for specific performance of the contract on the ground alleged in the plaint?”

A perusal of the issues reproduced in the grounds of the revision implies that there was no issue on which the rebuttal could be allowed. In the written statement, petitioner-defendant No.1 had denied the agreement and so was the stand in the statement made before the Court. The plaintiff-respondent No.1 was required to prove the agreement by leading affirmative evidence, which has already been done.

It was for the plaintiff-respondent No.1 to see whether he wants to examine the expert also in his affirmative evidence.

Once, it is found that there is no issue on the point to allow the rebuttal, no evidence could be allowed.

Learned counsel for respondent No.1 has relied upon the authority of this Hon'ble Court in case of **“Government Senior Secondary School, Kherki Daula, Tehsil Sohna, District Gurgaon vs Lilu Ram and others”, 2011(1) R.C.R.(Civil) 520**, which relates to Building Examination Expert in rebuttal evidence. There is difference between the Building Expert and the Handwriting Expert.

The other authority of **“Kuljeet Singh vs Lakhvir Singh”, 2011(1) Land L.R. 660**, has also been relied upon, which pertains to regular second appeal and not on the fact that rebuttal is to be allowed when there is no issue on the point.

It being so, the impugned order is not sustainable in the eyes of law and the same is accordingly set aside.

As such, the present revision petition is allowed.

**September 03, 2015**  
sarita

**(KULDIP SINGH)**  
**JUDGE**