

**IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH**

**CR No. 6037 of 2013**  
**Date of decision: September 11, 2015**

**Suman Sharma**

**..... Petitioner**

**Versus**

**Ranjana**

**..... Respondents**

**CORAM: HON'BLE MR. JUSTICE AMIT RAWAL**

Present:- Mr. Rakesh Bakshi, Advocate  
for the petitioner.

Mr. Vineet Chaudhary, Advocate  
for the respondent.

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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?

**Amit Rawal, J (oral).**

The challenge in the present petition is to the impugned order dated 19.9.2013 whereby the application filed petitioner-plaintiff directing the respondent-defendant to produce the original Will dated 14.7.1999 in order to compare the signatures of the vendor by a hand writing expert on the agreement to sell dated 23.10.2006 has been dismissed.

Though the respondent-defendant did not set up a Will but the fact remains that they have denied the signatures of the vendor and therefore, there was no other option for the petitioner-plaintiff to get the admitted signatures of the vendor on the Will

compared with the signatures on the agreement to sell. Photocopy of which has been placed on record.

Mr. Vineet Chaudhary, learned counsel appearing on behalf of the respondent-defendant submits that the application has rightly been dismissed as there was no rebuttal issue. The evidence which the petitioner-plaintiff has sought to lead ought to have been lead while concluding the evidence in affirmative. In support of his contentions he has relied upon the judgment of a Division Bench of this Court in **Surjit Singh and others Vs. Jagtar Singh and others 2007(1) RCR (Civil) 537.**

I have heard learned counsel for the parties and appraised the paper book as well as judgment of the Division Bench of this Court.

The Division Bench of this Court, while interpreting the provisions of Order 18 Rule 3 CPC, irresistibly held, where there is no rebuttal issue, the plaintiff has to lead evidence before closing the same in affirmative. He cannot seek permission to produce the evidence after closing the same, by way of rebuttal evidence. Since the respondent-defendant had already denied the execution of the agreement to sell, aforementioned, it was incumbent upon the petitioner-plaintiff to lead the evidence, as has been sought to be lead now, at the final stage of the suit, while leading the evidence in affirmative.

The trial court, in my view has rightly exercised the jurisdiction in declining the application by taking into consideration the aforementioned provisions of law. The order cannot be said to

have been passed without jurisdiction.

I do not find any illegality and perversity in the impugned order. The revision petition is devoid of merits. The same is accordingly dismissed.

**(AMIT RAWAL)**  
**JUDGE**

**September 11 , 2015**  
**archana**