

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 8069 of 2015 (O/M)
Date of decision : 1.12.2015

Harvinder Singh

..... Revisionist

Versus

Jagjit Singh

..... Respondent

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Ms. Jatinder Jit Kaur, Advocate, for the revisionist.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

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KULDIP SINGH, J. (ORAL)

Impugned in the present revision is the order dated 15.10.2015 (Annexure-P-1), passed by the learned Civil Judge (Junior Division), Ludhiana, vide which the applicant filed by the plaintiff for summoning the witness in rebuttal, was dismissed.

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

It comes out that in the suit for specific performance, the evidence of the plaintiff in affirmative was closed by orders. Thereafter, the defendant led the evidence. Now, the plaintiff has

CR No. 8069 of 2015 (O/M)

filed an application for summoning witnesses for rebuttal.

The lower Court has held that rebuttal can be led only on those issues, the onus of proving which was on the defendant. There were issues No. 5 and 6, which were to be proved by the defendant. The said issues are legal in nature and defendant had not led any evidence on these issues.

The contention of the learned counsel for the revisionist is that one of the witnesses of the agreement, namely, PW2, was cross examined as DW by the defendant, in which he has denied the agreement. In any case, the plaintiff could object that the witness examined by him as PW cannot be examined as DW. In any case, the plaintiff was given opportunity to cross examine the said witness to impeach his credit and now same can also be pressed at the time of arguments. Now, by way of rebuttal evidence, the plaintiff wants to lead evidence in affirmative, which is not permissible. The plaintiff cannot be allowed backdoor entry by leading affirmative evidence as his affirmative evidence was closed by orders. As such, there are no merits in the present revision. The same is accordingly dismissed.

(KULDIP SINGH)
JUDGE

1.12.2015
sjks