

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

CR-8574-2014

Date of Decision : 02.03.2015

JANMIT SINGH

..... Petitioner

Versus

KANWALJIT SINGH AND ORS

..... Respondents

CORAM HON'BLE MR. JUSTICE K.KANNAN

1. Whether reporters of local newspaper may be allowed to see judgment?

2. To be referred to reporters or not?

3. Whether the judgment should be reported in the digest?

Present: Mr. Ravi Gakhar, Advocate for
Mr. Jagdish Manchanda, Advocate
for the petitioner.

Mr. S.M. Tripathi, Advocate
for respondent No.1.

Ms. Ruchi Sen, Advocate for
Ms. Deepali Puri, Advocate for
respondents No.6 and 7.

K.Kannan, J (Oral)

The petition filed by the plaintiff to let in rebuttal evidence was disallowed on the ground that the petitioner did not reserve the right of rebuttal and that he cannot reopen the case when the original burden was on the plaintiff himself. The counsel would refer to the Division Bench ruling under Order 18 Rule 3 that held in *Jagdev Singh Vs. Darshan Singh 2007(2) CCC 261 (P&H)* that the plaintiff cannot as a matter of right lead evidence in rebuttal, the onus of proof of which was on them. There cannot be any dispute about such a formulation of principle of law. However, if it is not asserted as a matter of right and the plaintiff states that he should be given an opportunity to let in the evidence on an issue in respect of which the burden on him but he had failed to let in such an evidence and he seeks for exercise of the

discretion of the Court to allow him the benefit of letting in the evidence on an issue which he omitted to lead before the Court, the Court will not be without a power to exercise such a discretion. There is one thing to say the plaintiff, a party asserts a right and quite another to say that he seeks for extension of the Court's discretion to allow for the evidence to be given which must be taken as evidence in the nature of a party being recalled and allowed to be given an opportunity to let in additional evidence. It is not unusual that application for reopening cases are fixed in the lower Appellate Court or in the High Court only, in order that the parties are given opportunity to let in additional evidence and a complete justice is done between the parties. I will allow for the plaintiff, the petitioner the liberty to let in additional evidence and it is needless to state that the opposite party will have full opportunity for cross-examination and will also have a right to let in contra evidence, if he chooses to do after the plaintiff closes the evidence.

The order passed already is set aside and the Civil Revision is allowed on the above terms. The trial Court will endeavour to dispose of the case expeditiously, as required by counsel for the respondents before me.

(K. KANNAN)
JUDGE

March 02, 2015
ps-l