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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. CR-1672-2012 [O&M]
Date of Decision : February 12th, 2016

Yogesh Kumar

.... Petitioner

Versus

Rajinder Kumar & Sons and others

.... Respondents

2. CR-1675-2012 [O&M]

Yogesh Kumar

.... Petitioner

Versus

Rajinder Kumar & Sons and others

.... Respondents

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN.

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| 1. Whether Reporters of local papers may be allowed to see the judgment? | Yes |
| 2. To be referred to the Reporters or not? | |
| 3. Whether the judgment should be reported in the Digest? | Yes |

Present Mr. M.S.Sachdev, Advocate,
for the petitioner.

Mr. Ashwani Prashar, Advocate,
for respondents No. 7, 8 and 14.

SHEKHER DHAWAN, J.

Present revision petitions under Article 227 of the Constitution of
India for setting aside orders dated 9.2.2012 [Annexure P/1] passed by
Additional Civil Judge [Senior Division], Jalandhar whereby application filed

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by respondent No. 8 [Akhil Chhabra] for striking off the documents produced by the petitioner in rebuttal evidence has been allowed and application filed by the petitioner dated 21.11.2011 for additional evidence was dismissed.

2. Relevant facts of the case for the purpose of decision of these petitions are; that both the parties had concluded their evidence on 18.10.2011. When the case was fixed for rebuttal evidence and arguments, the petitioner filed/tendered certified copies of jamabandies and mutations which are *per se* admissible in evidence and same were filed in rebuttal evidence. However, the respondents took the objection that the said documents could not be produced in rebuttal. Thereafter, an application for additional evidence was filed taking the plea that the documents sought to be produced are certified copies of jamabandis and mutations and the said documents could not be produced earlier because onus to prove one of the issues [Issue No.3] was on the defendants and the said documents are required to be produced in rebuttal evidence only. The Court below allowed the application of respondent No.8 holding that the said documents could not be produced by way of rebuttal evidence. It is prayed that the said order dated 9.2.2012 is liable to be set-aside.

3. Having heard learned counsel for the parties and appraisal of case file, this Court is of the considered view that onus to prove issue No. (3) was upon the defendants. The relevant issue No. 3 is reproduced hereunder :-

“(3). Whether the plaintiff is entitled for the injunction as prayed for? OPD

The plaintiff was well within his right to produce copies of jamabandies and mutations which are authentic documents and most

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relevant for the just decision of the case and the same could be allowed in rebuttal evidence. Learned counsel for respondents had mainly raised the plea that the matter is lingering on because the documents were to be filed by the petitioner before conclusion of the evidence, but in the light of the fact that onus to prove issue No. 3 was upon the defendants and the copies of jamabandies and mutation relating to suit land certainly could be allowed in rebuttal evidence and there was no question of denial by the Court to dis-allow such rebuttal evidence. The petitioner moved another application for additional evidence but unfortunately, the same was also dismissed vide separate order dated 9.2.2012 though the same should have been allowed by the Court below.

4. In view of the above, the orders dated 9.2.2012 are set-aside and the petitioner is allowed to produce copies of jamabandies and mutations relating to the suit land in rebuttal evidence. Resultantly, the present revision petitions stand allowed.

5. Parties through their counsel are directed to appear before the trial Court on 14.03.2016.

(SHEKHER DHAWAN)
JUDGE

February 12th, 2016
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