

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CR No. 3118 of 2016
Date of decision : May 3, 2016

M/s C.S.N.Estates Private Ltd.

..... Petitioner

Versus

M/s Sagar Dutt Builders and Developers Pvt. Ltd.

..... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Sanjay Vij, Advocate
for the petitioner.

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 petitioner-plaintiff is aggrieved of the impugned order whereby application seeking the indulgence of the trial court allowing him to lead evidence in rebuttal by examining Siddharth Chauhan, plaintiff who had instituted the suit on behalf of the Company has been declined.

Learned counsel for the petitioner submits that on going through the issues which are reproduced hereinbelow, the issue No.2 to 5 are mixed question of fact and law, particularly issue No. 2 dealing with cause of action, and therefore, no pre judice would be caused to the opposite side in case, Siddharth Chauhan is allowed to be examined as they would be able to cross-examine the witness in extenso.

- i. Whether the plaintiff is entitled to recovery of Rs.2,53,28,812.50/- along with interest from the defendant on the grounds as taken in the plaint?OPP.
- ii. Whether plaintiff has no locus standi and cause of action to file the present suit?OPD
- iii. Whether the suit is band for misjoinder of parties?OPD
- iv. Whether the plaintiff is estopped from filing the suit by its own acts and conduct?OPD
- v. Whether the plaintiff has not come to court with clean hands, if so to what effect?OPD
- vi. Relief.”

He further submits that the finding rendered by the trial court that the plaintiff did not have any right to lead evidence is totally mis-placed, as such right was reserved.

He further submits that the judgment of Hon'ble **Division Bench in Surjit Singh Vs. Jagtar Singh 2007 (1) RCR (Civil) 537 and Jagdev Singh and others Vs. Darshan Singh and others 2007(1)RCR (Civil) 794** referred to by the trial court in the impugned order pertains to a situation where rebuttal is not permissible whereas instant case is not of such nature that the plaintiff is seeking rebuttal. Plaintiff has never stepped into the witness box, therefore, question of rebuttal would not arise, thus urges that the impugned order suffers from illegality and perversity and is liable to be set aside.

I have heard learned counsel for the petitioner, appraised the paper book and of the view that under the garb of such

application, the petitioner intends to lead evidence which he failed to lead in affirmative. The suit, ultimately has been filed through Siddharth Chauhan, though, the other authorized signatory of the Company has deposed but in my view, non-examination of Siddharth Chauhan in affirmative does not accrue cause of action in favour of petitioner to examine him in rebuttal. This view of mine has been endorsed by Division Bench of this Court in **Avtar Singh and another Vs. Baldev Singh and others 2015 (1) PLR 230.**

I do not find any illegality and perversity in the impugned order and the same cannot be said to have been passed without jurisdiction.

The revision petition is devoid of merits. Accordingly the same is dismissed.

(AMIT RAWAL)
JUDGE

May 3, 2016
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