

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

C.R. No.2945 of 2014 (O&M)

Date of Decision.17.11.2016

Bakshish Singh

.....Petitioner

Vs

Surjit Singh and others

.....Respondents

Present: Mr. A.K. Khinda, Advocate
for the petitioner.

Mr. Prateek Pandit, Advocate
for respondent Nos.1 and 2.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J. (ORAL)

The petitioner-plaintiff is aggrieved of the impugned order whereby the application for pleading additional evidence to produce and prove certified copy of general power of attorney already on record executed by defendant No.1 in favour of defendant No.2, has been dismissed.

Mr. A.K. Khinda, learned counsel appearing for the petitioner-plaintiff submits that the suit is for specific performance of agreement to sell dated 22.09.2005. The agreement was executed by defendant No.1 through his attorney defendant No.2 in respect of the land in dispute. During the evidence, the petitioner summoned the record and confronted the aforementioned document to defendant No.2 who denied the same. It is in this background of the matter, the application aforementioned was moved and the same has erroneously been dismissed.

He further submits that no prejudice would be caused to the defendant in case the additional evidence is permitted to be brought on

record as it would help the Court in adjudication of the *lis*.

Per contra, Mr. Prateek Pandit, learned counsel for the respondent Nos.1 and 2 submits that such an effort at the final stage tantamounts to filling up the lacuna, much less, leading in rebuttal under the garb of additional evidence in the absence of rebuttal issue and therefore, rightly so, the Court below dismissed the same.

I have heard learned counsel for the parties, appraised the paper book and of the view that there is no merit in the submission of Mr. Khinda, for, evidence placed on record tantamounts to rebuttal evidence in the absence of rebuttal issue in view of the law laid down by three Division Bench decisions of this Court in *Surjit Singh and others Vs. Jagtar Singh and others 2007(1) RCR (Civil) 537*; *Avtar Singh and another V. Baldev Singh and others 2015(1) PLR 230* and *Jagdev Singh and others Vs. Darshan Singh and others 2007(1) RCR (Civil) 794*. The denial was specific in the written statement, thus, it was incumbent upon the plaintiff to lead such evidence in affirmative. Failing to do so, I am of the view that rebuttal evidence is sought to be placed on record under the guise of additional evidence, which is not permissible in law.

For the reasons aforementioned, I do not find any reason to interfere with the order under challenge, much less, the order cannot be said to be passed without jurisdiction. The revision petition is dismissed.

(AMIT RAWAL)
JUDGE

November 17, 2016
Pankaj*

Whether reasoned/speaking Yes

Whether reportable No