

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

CR No.4475 of 2016
Date of decision : 09.08.2016

Naresh Kumar

...Petitioner

Versus

Gamdoor Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

1. Whether reporters of local newspapers 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. Pritam Singh Saini, Advocate for the petitioner.

AMIT RAWAL, J. (Oral)

The petitioner-plaintiff is aggrieved of the dismissal of the application, whereby assistance of the expert is sought to be taken in rebuttal.

Mr. Pritam Singh Saini, learned counsel appearing on behalf of petitioner-plaintiff submits that suit for recovery of amount is on the basis of entry in bahi khata. Defendant denied the same with regard to the correctness and genuineness of the same. Defendant examined the expert who submitted the report that there are certain addition. The said report/statement in the evidence is to be rebutted by taking the aid of an expert. The prayer was not only to lead rebuttal evidence but for additional

evidence too. The Court could have examined such aspect.

I have heard learned counsel for the petitioner-plaintiff and appraised the paper book.

Since the defendant had denied the entries not to be correct and genuine, the plaintiff was enjoined upon obligation to discharge the onus by leading the evidence in affirmative i.e. not in the manner and mode which is now been adopted, in essence, expert should have been examined by leading evidence in affirmative.

I have come across many cases where parties fails to lead evidence in affirmative and then take the aid of additional evidence to bring on record the evidence. In my view, it tantamounts to filling up of lacuna in leading evidence in the absence of rebuttal issue. If at all the petitioner-plaintiff is aggrieved of the dismissal of the application, he shall be at liberty to seek the vindication as per the provision of Order 43 Rule 1-A of CPC but not in the manner and mode above.

I do not find any illegality and perversity.

No ground for interference is made out.

Dismissed.

Nothing expressed hereinabove shall be construed as an expression on merits of the case.

09.08.2016

pawan

**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned:-

Yes

Whether reportable:-

Yes/No