

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

CR No.5569 of 2016 (O&M)

Date of decision:30.08.2016

Manjit Kaur

... Petitioner

Vs.

Shivcharan Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. B. S.Bhinder, Advocate
for the petitioner.

AMIT RAWAL J. (Oral)

The petitioner-plaintiff is aggrieved of the dismissal of the application seeking indulgence of the Court for leading additional evidence by examining the hand writing/thumb impression expert in a suit for declaration.

Mr.B.S.Bhinder, learned counsel appearing on behalf of the petitioner submits that suit was based upon the Will and the original Will was lost. An application for additional evidence was allowed and the evidence was led but inadvertently, counsel could not examine the handwriting expert. In this background of the matter, the application was filed when the suit had reached the stage of arguments. The aforementioned evidence is essential and necessary for adjudication of the lis, failing which, the petitioner would left in lurch.

I have heard learned counsel for the petitioner and appraised

the paper book.

This Court, while hearing the arguments, confronted Mr. Bhinder as to whether there is any rebuttal issue. The answer was in negative. In the absence of rebuttal issue, the party cannot be permitted to lead same very evidence under the garb of additional evidence. Such practice has already been deprecated by me in many orders. Once the onus was on the petitioner to prove on record the documents, evidence in this regard has to be led in affirmative. Three Hon'ble Division Bench judgments of this Court rendered in **Surjit Singh and others vs. Jagtar Singh and others 2007(1) RCR (Civil) 537**; **Avtar Singh and another vs. Baldev Singh and others 2015(1) PLR 230** and **Jagdev Singh and others vs. Darshan Singh and others 2007(1) RCR (Civil) 794** leave no manner of doubt that in the absence of rebuttal issue, the party cannot lead evidence.

In view of the aforementioned observations, I do not intend to differ with the findings rendered by the Court below which are based upon the appreciation of documentary evidence placed on record, much less, the impugned order cannot be said to have been passed without jurisdiction.

Accordingly, the revision petition stands dismissed.

(AMIT RAWAL)
JUDGE

August 30, 2016
savita

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No