

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CR No. 5708 of 2012(O&M)
Date of decision : March 4, 2016

Ram Kumar Bansal

..... Petitioner

Versus

Balwinder Sarpal and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Gaurav Sethi, Advocate
for the petitioner.

Mr. A. S. Sidhu, Advocate
for the respondents.

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 order whereby the application filed at the instance of the defendant for refusing to recall the order granting witness of the plaintiff to lead evidence in rebuttal has been allowed.

Learned counsel appearing on behalf of the petitioner submits that in a suit for specific performance following issues were framed:-

“1. Whether the defendants entered into an agreement dated 5.4.2006 for a consideration

amount of Rs.7,00,000/- after receiving Rs.1,00,000/- as earnest money, if so its effect?OPP

2. Whether the plaintiff always remained ready and willing and is still ready and willing to perform his part payment of the contract?OPP

3. Whether the plaintiff is entitled to decree for possession by way of specific performance of agreement to sell in question dated 5.4.2006?OPP

4. Whether the plaintiff has no locus standi and cause of action to file and maintain the present suit?OPD

5. Whether the plaintiff is entitled to the relief of permanent injunction as prayed for by him?OPD

6. Whether the present suit is barred under order 41 (h) of the Specific Relief Act?OPD”

The evidence which the petitioner wanted to lead in rebuttal is regarding obtaining No objection certificate as the same was specifically pleaded in the written statement, thus the order under challenge is not sustainable in the eyes of law.

Learned counsel appearing on behalf of the respondent in rebuttal submits that in view of the ratio decidendi culled out in **Surjit Singh and others Vs. Jagtar Singh and others 2007 (1)RCR (Civil) 537** and **Avtar Singh and another Vs. Baldev Singh and others 2015 (1) PLR 230** that there is no rebuttal issue,

therefore the plaintiff cannot be permitted to lead evidence in rebuttal, at the best, he could lead evidence viz-a-viz issue No.2.

I have heard learned counsel for the parties and appraised the paper book and of the view that Issue No.2 with regard to readiness and willingness takes care of factum of obtaining No objection certificate. It was a prerogative of the plaintiff to lead evidence in affirmative being fully aware of the objection taken in the written statement. In the absence of same, he cannot be permitted to lead evidence in rebuttal.

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

March 4 , 2016
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