

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

CR No.6223 of 2016(O&M)

Decided on. 08.11.2016.

Harjit Singh

.....Petitioner

Versus

Gurcharan Singh

.....Respondent

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. Vijay Rana, Advocate
for the petitioner.

DARSHAN SINGH, J. (Oral)

The present revision petition has been preferred against the order dated 28.07.2016 passed by the learned Civil Judge (Jr. Division), Jalandhar, whereby the application moved by the petitioner for seeking the permission to adduce evidence in rebuttal has been dismissed.

2. I have heard Mr. Vijay Rana, Advocate, learned counsel for the petitioner and have carefully gone through the paper book.

3. Learned counsel for the petitioner contended that the petitioner-plaintiff wants to examine the clerk of PSPCL, Sub-Divisional Ruhana Jattan, Hoshiarpur pertaining to tube-well connection no. AC 17/104 and concerned clerk of Punjab and Sind Bank, Daroli Kalan, pertaining to the cheque nos. B/2621707 and B/2621708 in the rebuttal evidence in order to rebut the evidence

adduced by the plaintiff. He contended that the learned trial Court has wrongly dismissed the application filed by the petitioner. Petitioner should have been awarded an opportunity to adduce the evidence in rebuttal in order to prove his case.

4. I have duly considered the aforesaid contentions.

5. In the application, the petitioner has not mentioned at all on what issue the plaintiff-petitioner wants to adduce the evidence in rebuttal. It is settled principle of law that as per Order 18 Rule 3 of the Code of Civil Procedure, 1908 (for short CPC) the plaintiff can only adduce the evidence in rebuttal on those issues the burden of proof of which is on the defendant. The petitioner-plaintiff has filed the application to summon two official witnesses. It is not mentioned that on which issue he wants to examine these witnesses. This fact is not disputed that plaintiff-petitioner had already led his affirmative evidence to prove his case. Petitioner-plaintiff cannot be allowed to lead the evidence in rebuttal to rebut the evidence adduced by the respondent-defendant on the issues the burden to prove of which was on the plaintiff-petitioner because in order to discharge his onus, the plaintiff was required to lead the evidence in his affirmative evidence as per the provisions of Order 18 Rule 2 CPC. The rebuttal evidence can only be led by the plaintiff on the issues the burden to prove of which was on the defendant. But, the evidence sought to be adduced by the plaintiff-petitioner was not on those issues. So, he has no right to lead the evidence in rebuttal.

6. Thus, I do not find any illegality in the impugned order passed by the learned trial Court dismissing the application for seeking

the permission to adduce evidence in rebuttal. Therefore, it does not call for any interference by this Court.

7. Thus, the present revision petition having no merits, is hereby dismissed.

November 08, 2016

S.khan

**(DARSHAN SINGH)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No