

Civil Revision No.6933 of 2013

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.6933 of 2013
Date of Decision: July 26, 2016

Joginder Singh

...Petitioner

Versus

Nishan Singh & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

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?

Present: Mr.Vipin Mahajan, Advocate,
for the petitioner.

Mr.Raj Kumar Arya, Advocate,
for respondent No.4.

AMIT RAWAL, J. (Oral)

Petitioner-plaintiff is aggrieved of the impugned order, whereby the application seeking to place on record registered mortgage deed 28.9.1951 by way of additional evidence at rebuttal stage, has been declined.

Mr.Vipin Mahajan, learned counsel for the petitioner-plaintiff submits that the suit is for claiming declaration that the plaintiff

and the defendants are the owners of the property left by their late father Tara Singh, who allegedly died on 19.11.1961. However, the defendants in the written statement took a plea that Tara Singh, in the years 1965 and 1966, executed two sale deeds, but the petitioner in the replication denied the signatures, though the same proved on record as Ex.D1 and Ex.D2. It is in these circumstances, the application was moved to place on record the registered mortgage deed as well as the application for comparison of the thumb impressions in order to ascertain the truth, but the Court below has failed to assign any reasons in declining the application and, thus, urges this Court for setting-aside of the impugned order.

Mr.Raj Kumar Arya, learned counsel for respondent No.4 submits that there is no rebuttal issue. Placing on record certain documents in the absence of the rebuttal issue tantamounts to filling up the lacunae in the evidence by circumventing the provisions of law, inasmuch that once there is no rebuttal evidence, the petitioner cannot be permitted to lead evidence by way of additional evidence and, thus, urges this Court for dismissal of the revision petition.

I have heard the learned counsel for the parties, appraised the paper book and of the view that once there is no rebuttal issue, the petitioner-plaintiff cannot be permitted to circumvent the process of law

by moving the application to bring on record certain documents by way of additional evidence as it tantamounts to lead the evidence by way of rebuttal evidence. Such practice is liable to be deprecated. The factum of the sale deeds was disclosed in the written statement. Nothing prevented the plaintiff to move the application calling upon the defendants to produce the original sale deeds for comparison purpose. In my view, once the plaintiff has failed to lead evidence in affirmative, he cannot be permitted to lead evidence in the manner and mode as indicated above.

No case for interference is made out. Revision petition stands dismissed.

July 26, 2016
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No