

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

CR No.718 of 2015 (O&M)
Date of decision : 21.03.2016

Gagandeep Goyal

...Petitioner

Versus

Pritpal Singh Aujla

...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. H.S. Saini, Advocate for the petitioner.

Mr. Aman Bahri, Advocate for the respondent.

AMIT RAWAL, J. (Oral)

The petitioner-plaintiff is aggrieved of the order, whereby application seeking assistance of the Court to summon the witnesses from the Estate Office as the case is listed for rebuttal and final arguments, has been dismissed.

Mr. H.S. Saini, learned counsel appearing on behalf of petitioner submits that agreement to sell was entered into by three purchasers. However, one of the co-purchaser had instituted the suit. Other co-purchasers had appeared as defendants witnesses and certain evidence surfaced in the cross-examination, in order to rebut the same, assistance of

the Court was sought by moving the application. The evidence sought to be placed on record would help the Court in adjudication of the lis and, therefore, erroneously been decided and prays for setting aside of the order.

Mr. Aman Bahri, learned counsel appearing on behalf of defendant submits that such type of witness is not permitted in rebuttal. In the absence of the rebuttal issue, entire onus is on petitioner-plaintiff to bring on record material qua readiness and willingness, much less, proving of the agreement to sell and ownership in affirmative and not in the manner and mode as has been adopted and prays for upholding of the order.

I have heard learned counsel for the parties and appraised the paper book and of the view that there is no merit in the plea of Mr. Saini, for the reasons that there is no rebuttal issue vis-a-vis the evidence led by the respondent-defendant in suit for specific performance. The plaintiff is required to prove the readiness and willingness, much less, genuinity of the agreement, in affirmative. In case of denial of agreement, onus is on plaintiff while leading evidence in affirmative. Stray lines in cross-examination of the witnesses would not lead to any cause of action as sought in the application

It is settled law that in the absence of rebuttal issue, plaintiff cannot be allowed to lead evidence in affirmative.

No ground for interference is made out.

Order cannot be said to have been passed without jurisdiction.

Dismissed.

21.03.2016

pawan

**(AMIT RAWAL)
JUDGE**