

In the High Court of Punjab and Haryana at Chandigarh

PARAMJIT KAUR SAINI
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Civil Revision No. 7618 of 2015
Date of Decision: 14.1.2016

Rehmat Khan

---Petitioner

versus

Abdul Rahim and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mohd. Arshad, Advocate
for the petitioner

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

Rekha Mittal, J.

The present petition lays challenge to order dated 16.10.2015 (Annexure P-3) passed by the Civil Judge (Junior Division) Nuh whereby the application filed by the petitioner-plaintiff for summoning the witnesses to rebut the additional evidence led by the respondents/defendants has been dismissed.

Counsel for the petitioner contends that the petitioner filed a suit for declaration by way of mandatory injunction with consequential relief of permanent injunction against the respondents. The petitioner adduced evidence to prove his case and thereafter the respondents-defendants were provided an opportunity to lead evidence. The respondents led evidence and closed their case. Later, an application was filed by the respondents for leading additional evidence which was allowed by the

learned trial court. It is argued that as the respondents have been permitted to lead additional evidence, the petitioner-plaintiff is entitled to lead evidence to rebut the additional evidence adduced by the respondents.

I have heard counsel for the petitioner, perused the impugned order and find no merit in the petition.

On a pointed query raised by the Court as to whether any issue was framed by the trial court the onus whereof rests upon the respondents, counsel did not give any satisfactory reply. The learned trial court has noticed that while closing his evidence, the petitioner did not reserve any right to lead evidence in rebuttal. The mere fact that the respondents have been allowed to lead some additional evidence does not *ipso facto* entitle the petitioner-plaintiff to lead evidence in rebuttal. The matter would have been different had the additional evidence been allowed to be led by the plaintiff in the case, in that eventuality, the contesting defendant would be entitled to an opportunity to rebut the additional evidence. In this view of the matter, I am unable to accept the submissions of counsel for the petitioner that either the petitioner is entitled to an opportunity to rebut the additional evidence adduced by the respondents or the trial court has committed any error in rejecting his application for the relief claimed.

In view of what has been discussed hereinabove, the petition sans merit and is accordingly dismissed in limine. No order as to costs.

(Rekha Mittal)
Judge

14.1.2016

PARAMJIT