

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R. No.793 of 2016
Date of Decision.05.02.2016

Surmukh Singh and othersPetitioners
Vs.

Dayalo alias Korhi and othersRespondents

Present: Mr. Vivek Goyal, Advocate
for the petitioners.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

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?

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K. KANNAN J. (ORAL)

1. The plaintiff who was required to prove her status as daughter of one Fakira and that Fakira himself was brother of the contesting defendants did not give appropriate evidence any more than a photograph showing to prove her status and after the defendants' side was closed and after the co-defendants who were allegedly colluding with the plaintiff brought some additional evidence, the plaintiff is seeking to use that an occasion to make it appear as though she would be entitled to rebuttal evidence. She has sought to produce some public records containing entries relating to birth.

2. The counsel says that the proof of her status as daughter of Fakira was really in the nature of affirmative evidence on issue of which the burden of proof was on her and it cannot be brought in by means of rebuttal evidence. The counsel says that there are voluminous case laws on the subject. I immediately vouch them as correct that there cannot

be evidence in rebuttal of what an aspect has to be proved in the affirmative. The court has accepted it as rebuttal evidence. I set aside that finding that it is being received as rebuttal evidence and allow the liberty to the plaintiff the benefit of additional evidence to prove what she is contending for. On such evidence, if the defendants-petitioners so want, they will be at liberty to give their own rebuttal evidence to what the plaintiff is now giving.

3. The order passed is sustained although on different reasonings and the revision petition is dismissed with the above observations.

(K. KANNAN)
JUDGE

February 05, 2016
Pankaj*