

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

Civil Revision No.8368 of 2016
Date of decision: December 15, 2016

Ahuja Tower and others ...Petitioners

Versus

Bank of Baroda and others ...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Arun Jain, Senior Advocate with
Mr. Abhishek Dhull, Advocate for the petitioners.
Rajan Gupta, J.

Petitioners have impugned order dated 08.11.2016, passed by the trial court, whereby application filed by him to prove partnership deed dated 13.9.2002 by summoning attesting witness thereto, has been rejected.

Mr. Jain, learned senior counsel appearing for the petitioners has assailed the order. According to him, petitioner has a right to produce the partnership deed in rebuttal. The trial court has not appreciated the whole controversy in correct perspective. Impugned order, thus, deserves to be set-aside and petitioners deserve to be allowed one opportunity to lead evidence to prove the partnership deed.

I have heard learned counsel for the petitioner and given careful thought to the facts of the case.

It appears, suit was instituted way back in the year 2009 by the plaintiffs seeking recovery of Rs.21,96,346/- alongwith interest on the plea that the defendants had agreed to take their premises on lease for a

branch of Bank of Baroda, but later they backed out. Due to this, plaintiffs suffered huge loss. Defendants (respondents herein) filed a counter claim for recovery of Rs.13.00 lacs as damages for defamation and for levelling false allegations against them. They also claimed Rs.2.00 lacs in lieu of the articles given to the plaintiffs. Trial court framed issues in the case on 27.9.2010. Defendant No.1 was proceeded ex-parte. Vide order dated 3.3.2014, ex-parte proceedings were set-aside. A counter claim was preferred by the defendant/respondents. Issues were also framed therein. At the stage of rebuttal, plaintiffs wishes to place on record partnership-deed dated 13.9.2002 by summoning an attesting witness. Plea of the petitioners has been rejected by the trial court on the ground that document in question has no relation to the counter claim preferred by the defendants. Plaintiffs have relied upon a partnership deed dated 3.9.2002. Neither in the pleadings nor in deposition of any witness, there is reference to same. Besides, document relied upon was beyond the pleadings of the petitioners in counter claim. Plea of the petitioners to lead such evidence in rebuttal has been rejected.

I find no infirmity with the order passed. In considered view of this court, petitioners cannot be allowed to place on record a new partnership-deed dated 13.9.2002 in rebuttal and thus, give a new turn to the trial, which has been pending before the court for a considerable period. Scope of rebuttal evidence is limited. Petitioners cannot be allowed to lead evidence at the fag end of the trial, which was to be led at the stage of affirmative evidence. Apart from this, the case is now at the stage of culmination. Admittedly, it is fixed for rebuttal evidence and

arguments today i.e. 15.12.2016. Trial court would, thus, ensure that it concludes the proceedings at the earliest. The petition is without any merit and is hereby dismissed.

(RAJAN GUPTA)
JUDGE

December 15, 2016
'Rajpal'

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No