

In the High Court of Punjab and Haryana at Chandigarh

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CR No. 1617 of 2015

Date of decision: 4.9.2017

UDAY SINGH

.....petitioner

Versus

RAM SINGH AND ORS

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr.Parminder Singh, Advocate,
for the petitioner.

Mr.Maharaj Kumar, Advocate
for the respondents.

RAJ MOHAN SINGH, J (oral)

The order impugned herein is the order dated 7.2.2015 passed by Civil Judge (Jr.Divn.) Karnal, whereby expert evidence was not allowed to be led by way of additional evidence.

Plaintiff-petitioner sought comparison of thumb impression of Soran Singh appearing on the affidavit dated 30.5.1997 with that of Will dated 26.2.1999. A suit for partition and possession was filed by the plaintiff-petitioner. A specific stand was taken by the defendants in the written statement with regard to affidavit dated 30.5.1997 in respect of

acknowledgment of partition. Photocopy of the affidavit was allegedly attached with the written statement.

Plaintiff claimed the thumb impression appearing on the affidavit to be forged. Will was pleaded by the plaintiff in the suit. The factum of affidavit was duly pleaded by the defendants in the written statement and, therefore, the said fact was very much in the knowledge of the plaintiff while leading evidence in affirmative.

In view of law laid down in **Surjit Singh and others vs. Jagtar Singh and others, 2007(1) RCR (Civil) 537 DB, Jagdev Singh and others vs. Darshan Singh and others, 2007(1) RCR (Civil) 794 and Avtar Singh vs. Baldev Singh, 2015 (1) PLR 230**, the expert evidence in rebuttal cannot be allowed in respect of an issue the onus of which was on the plaintiff himself. In view of nature of evidence to be led at the stage of rebuttal evidence vis-a-vis the remedy of additional evidence, this Court in **Ram Kumar vs. Raj Kumar and others, 2014(3) CivCC 453** held that the Handwriting Expert cannot be allowed to be examined in rebuttal and even by way of additional evidence in respect of an issue, the onus of which was on the plaintiff himself and the said fact was very much in the knowledge of the plaintiff at the time when he was leading evidence in affirmative. The said proposition was also

reiterated in **M/s Shree Sangmeshwar Mahadev Gramo Udyog Mandal vs. Ajmer Singh and another, 2014(4) Law Herald 3627.**

The case law cited by learned counsel for the petitioner i.e. Civil Revision No.3204 of 2014 titled Nawab Singh Manes vs. Gur Lal Singh Manes is distinguishable on the point that in the said judgment, the defendant in the written statement in addition to the denial of execution of agreement, admitted his signature on the agreement in some different context.

In view of above, I find that there is no error of jurisdiction while passing the impugned order by the trial Court.

Accordingly, this revision petition is dismissed.

**(RAJ MOHAN SINGH)
JUDGE**

September 04, 2017

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Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No