

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

CR No.5601 of 2016
Date of decision : 25.10.2017

Sukhmandir Singh @ Sukhdev Singh

...Petitioner

Versus

Gurcharan Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. J.K. Singla, Advocate for the petitioner.

Mr. K.S. Brar, Advocate for respondent Nos.1 to 4.

ANIL KSHETARPAL, J. (ORAL)

Defendant No.1-petitioner is in revision petition against the order dated 10.08.2016 permitting the plaintiffs to lead evidence in rebuttal. The plaintiffs want to examine a Handwriting and Finger Print Expert in rebuttal.

The issues framed by the Court at the time of trial are extracted as under:-

- “1. *Whether the plaintiffs are entitled to declaration as prayed for?OPP*
2. *Whether the plaintiffs are entitled to permanent injunction as prayed for? OPP*
3. *Whether the plaintiff has no cause of action to file the present suit? OPD*
4. *Whether the suit of the plaintiffs is not maintainable? OPD*
5. *Whether the plaintiffs have concealed the material facts from the Court? OPD*
6. *Whether the plaintiffs have no locus standi to file the present suit? OPD*
7. *Whether the plaintiffs have not come to the court with clean hands? OPD*

8. *Whether the present suit has been filed by the plaintiffs only to harass the defendants? OPD*
9. *Relief.”*

The plaintiffs were given sufficient opportunity to lead evidence in support of the issues, onus whereof was on the plaintiffs. The plaintiffs closed their evidence in affirmative. Thereafter the defendants led evidence. Now at the stage of rebuttal, the plaintiffs want to examine a Handwriting and Finger Print Expert to compare the signatures of Kikkar Singh on the receipt dated 06.02.2006. This evidence is affirmative in nature. When the plaintiffs led their evidence, this receipt was in existence.

It is well settled by the two Division Bench of this Court reported as 2007(1) RCR (Civil) 794, *Jagdev Singh and others Vs. Darshan Singh and others* and judgment reported as 2007(1) RCR (Civil) 537 titled as *Surjit Singh and others Vs. Jagtar Singh and other* that the rebuttal evidence is permissible only with respect to the issues onus whereof is on the defendants. In the present case, a reading of the issues which have been extracted supra would show that the evidence sought to be produced does not fall within the scope of issues No.3 to 8, onus whereof was on the defendants.

In these circumstances, this Court is left with no choice but for to set aside the order passed by the learned trial Court dated 10.08.2016.

Revision petition is allowed.

25.10.2017

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- **Yes/No**

Whether reportable:- **Yes/No**