

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-6358-2017 (O&M)
Date of Decision:- 18.09.2017

Didar Singh

.....Petitioner

Versus

Balkar Singh

.....Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ankur Bansal, Advocate,
for the petitioner.

RITU BAHRI, J. (Oral)

Petitioner-defendant has come up in revision against the order dated 09.09.2016 (Annexure P-1), passed by the learned Civil Judge (Jr. Division), Jalandhar whereby application for framing of additional issue, filed by the respondent/plaintiff, has been allowed and order dated 29.07.2017 (Annexure P-2) whereby application for re-framing of additional issues dated 16.03.2017, filed by the petitioner, has been dismissed.

Learned counsel for the petitioner states that the respondent/plaintiff has only examined himself as witness to the case and no other witness including the marginal witnesses to agreement to sell dated 04.02.2010 was examined by him. After the order dated

09.09.2016 (Annexure P-1), the petitioner has examined the attorney on his behalf and this witness was thoroughly cross-examined by the counsel for the respondent and thereafter the petitioner closed his evidence in the suit on 16.02.2017. Moreover, the respondent has failed to conclude his evidence and thereafter, the same has been closed by Court order. Even at the time when evidence of the respondent was closed, he does not reserve his right to lead any rebuttal evidence.

After hearing the learned counsel for the petitioner, going through the record, this Court is of the considered view that the petitioner/defendant had taken the specific stand in the suit that agreement in question had been executed on the ground of forged and fabricated issues. Moreover, since the evidence has already been recorded, the impugned order dated 09.09.2016 does not require any interference as the Court can frame additional issues even at the appellate stage under Order 14 Rule 5 CPC. Moreover,

Further, learned counsel for the petitioner has challenged the order dated 29.07.2017 (Annexure P-2) whereby the application filed by the petitioner, for re-framing of additional issue, has been dismissed.

As is evident from the record that after the evidence of additional issues was led by the defendant, the plaintiff have a right to lead evidence in rebuttal and in rebuttal as per order (Annexure P-11), he has examined PW3 by way of affidavit and the case was adjourned for 10.03.2017 for cross-examination of PW3 and for rebuttal evidence.

Taking into consideration the facts of the present case, no interference is warranted in the impugned order dated 29.07.2017

(Annexure P-2) as well, therefore, the present revision petition is hereby dismissed.

However, at this stage, a liberty is granted to the petitioner to cross-examine the above-said witness.

September 18, 2017
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(RITU BAHRI)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No