

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

**CR No.8369 of 2015(O&M)
Date of Decision: 27.07.2017**

Sukhmander SinghPetitioner
Vs
Punjab Sate Power Corporation Ltd. and others
.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. Siddharth Gupta, Advocate
for the petitioner.

Mr. Deepak Vashisht, Advocate
for respondents No.3 and 4.

RAJ MOHAN SINGH, J.(Oral)

[1]. This revision petition has been filed by the plaintiff/petitioner against the order dated 12.10.2015 passed by Civil Judge (Junior Division), Bathinda, vide which the application filed by the defendants for not permitting the petitioner/plaintiff to lead evidence in rebuttal was allowed.

[2]. It appears from the record that the defendants filed the aforesaid application as a pre-emptory measure, but the subsequent facts on record revealed that in fact, the plaintiff himself wanted to lead rebuttal evidence. After issuance of notice of motion on 09.12.2015, the case was dismissed for want of compliance of earlier order and prosecution on 01.03.2016 and thereafter, the same was restored on

23.08.2016. The case could not be taken up on some occasions and the same was adjourned for 23.08.2016 by order.

[3]. Thereafter, CM No.14436-CII of 2017 was filed by respondents No.3 and 4 and notice of the said application was issued to the non-applicant/petitioner for 24.07.2017. On 24.07.2017, the date of hearing of the petition was preponed in the presence of learned counsel for the petitioner for today.

[4]. Perusal of the record shows that the issues were framed on 23.10.2013. The onus of issue No.1 was on the plaintiff himself, whereas onus of other issues was on the defendants. Plaintiff led his evidence and thereafter, evidence of the defendants was also closed. Issues No.2 to 5 are only legal issues. At the time of leading evidence in affirmative, no right was reserved by the plaintiff to lead evidence in rebuttal before the evidence of other party started. The plaintiff cannot lead any evidence in rebuttal in respect of an issue, onus of which was on the plaintiff himself in the absence of such a reservation of right. In support his contention, learned counsel for respondents No.3 and 4 relied upon **Suresh Kumar and others Vs. Joginder Singh, 2012(1) PLR 57.**

[5]. Perusal of the issues framed by the trial Court shows that only issue No.1 was framed thereby fastening the onus to prove it upon the plaintiff. After leading evidence in affirmative, no right was reserved by the plaintiff to lead evidence in

rebuttal.

[6]. 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, it has been held that the plaintiff cannot lead evidence in rebuttal in respect of an issue, the onus of which was on the plaintiff himself.

[7]. In view of above, I do not find any error of jurisdiction in the impugned order dated 12.10.2015 passed by Civil Judge (Junior Division), Bathinda. Consequently, the present revision petition is dismissed.

July 27, 2017.

Prince

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No