

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

CR No.1836 of 2017
Date of decision : 09.03.2018

Chhatar Pal

...Petitioner

Versus

Sanjeev Kumar and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

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

Mr. B.S. Rana, Sr. Advocate with
Mr. Gagandeep Rana, Advocate for the respondents.

ANIL KSHETARPAL, J. (ORAL)

The defendant-petitioner is in the revision petition against the order dated 23.02.2017 passed by the trial Court, allowing the application for additional evidence filed by the plaintiff so as to examine the Handwriting and Finger Print Expert on the ground that when the defendant appeared in the evidence, he denied that the document bears the thumb impressions and signatures by his father.

Learned trial Court looking into all aspects of the matter has allowed the application for additional evidence after recording as under:-

“6. After having heard the arguments advanced by the learned counsel for the parties, this court is of the considered view that it is a settled law that the procedure is a hand made of justice. The procedure has to be applied in

*order to advance the substantial justice and not to curb the same. In the present case, right from the very beginning of the case, the defendants have alleged that Chhattar Pal never entered into the agreement to sell with the plaintiff and submitted that he only entered into the agreement to sell in favour of Parvesh Rani wife of Sukhbir Singh, resident of Damoli against total sale consideration of Rs.18,62,500/-. Thus, heavy burden lies on the plaintiff to prove the execution of agreement to sell. In the present application, the plaintiff has submitted that Vikas Kumar son of Chhattar Pal has denied the signatures of his father Chhattar Pal on the agreement to sell Ex.P1 and therefore, he wants to compare the signature of Chhattar Pal with the standard signatures through handwriting expert. This Court is of the considered view that although applicant is negligent as he was having opportunity to lead this evidence at the time of affirmative evidence but he failed to do so but no prejudice is going to be caused to the defendants if the signatures of Chhattar Pal deceased is compared through handwriting expert with the standard signatures of Chhattar Pal as the defendants right from the very beginning have denied the execution of agreement to sell Ex.P1. In this case, the controversy is whether signatures of Chhattar Pal on agreement to sell Ex.P1 are forged or not and this controversy can only be effectively adjudicated upon if plaintiff is allowed to lead additional evidence in rebuttal to get signatures of Chhattar Pal deceased compared on the registered mortgage deed executed by Chhattar Pal in favour of State Bank of Patiala, Khizrabad Branch and the defendants can be well compensated by imposition of suitable costs. Reliance in this regard can be placed on the case law titled as **Harbans Kaur Versus Sohan Singh and others 1990 CCC 478 (P&H)**. Further, Hon'ble Punjab &*

*Haryana High Court in the case law titled as **Jeeto @ Smt. Manjit Kaur Versus Union of India 2007 (4) Civil Court Cases 678 (P&H) & Phuman Singh and another Versus Hazara Singh and others, 2009(3) CCC 694** has held that “if the evidence sought to be produced by additional evidence is just and essential for proper adjudication of the case, the same cannot be shut only to some delay in moving the application for additional evidence.”*

As the evidence sought to be produced through the additional evidence in rebuttal evidence of plaintiff is very necessary for just and proper adjudication of the case and no prejudice is going to be caused to the defendants if the present application is allowed. Therefore, the application in hand is allowed and disposed off accordingly. Since the present application has been moved at the stage of rebuttal evidence and arguments, therefore, applicant is burdened to pay a sum of Rs.1000/- as costs to be paid to opposite counsels.”

Learned counsel for the petitioner has vehemently argued that the application for additional evidence could not be filed by the plaintiff when the case was fixed for rebuttal and arguments. He submits that at that stage only the rebuttal evidence can be led. The application for additional evidence is not maintainable.

This Court has considered the arguments, however, do not find any substance therein. The application for additional evidence is moved only when the evidence of the party is closed. The evidence in rebuttal has a very limited scope. The plaintiff can be allowed to lead evidence in rebuttal only on the issues onus whereof was on the defendant. If the evidence which is sought to be led, does not fall within the scope of rebuttal evidence, the

plaintiff has remedy to file the application for additional evidence. This is exactly what was done in the present case. The argument of the learned counsel that at the stage when the case was fixed for rebuttal evidence, no application for additional evidence is maintainable, is just to be noticed and rejected. After the closure of the evidence of the party, the application for additional evidence would be maintainable.

In view thereof, there is no scope for interference.

Revision petition is dismissed.

09.03.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No