

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R. No. 1951 of 2018
Date of decision: 23.03.2018

Hardev Singh

....Petitioner(s)

Versus

Ranjit Kaur and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. Varun Sharma, Advocate,
for the petitioner.

G.S.SANDHAWALIA, J. (Oral)

The present revision petition under Article 227 of the Constitution of India is preferred against the order dated 23.02.2018 (Annexure P-1) passed by the Civil Judge (Jr. Divn.), Jalandhar by the plaintiff-petitioner. Vide the impugned order, the application moved to lead evidence in rebuttal or by way of additional evidence has been dismissed and the case has been fixed for rebuttal as a last opportunity, if any, and for addressing arguments.

The reasoning given by the Trial Court is that the evidence was within the knowledge of the plaintiff and was not produced when he was leading the evidence in affirmative and the plaintiff could not be allowed to lead evidence to rebut the evidence adduced by the defendants on the issues the burden of proof of which was on the plaintiff. Similarly, on the issue of additional evidence, reliance had been placed upon judgment in *Satnam Singh vs. Davinder Kaur, 2007 (2) CCC 81* that additional evidence cannot be led where the parties have closed the evidence.

A perusal of the impugned order would go on to show that the

suit for recovery was filed against the defendants on the account that amount had been paid to defendant no. 1 by way of cheques which were encashed by her by depositing the same in her account in USA. The onus of proof as such would, thus, necessarily be on the petitioner that the payment was made and had been duly encashed by the defendants. It is for the plaintiff to prove these facts by summoning appropriate witnesses from the bank and to lead sufficient evidence to show that the same has been done. Once the evidence has been closed and the case is at an advanced stage for rebuttal, the Trial Court is well justified in holding that the rebuttal could only be allowed qua those issues the onus of which would be upon the defendants. In such circumstances, the Trial Court was well justified in dismissing the application.

Merely because the attorney of defendant no. 1 had appeared and had filed evasive reply regarding the payment would not be sufficient ground as such to lead additional evidence on the ground that the onus is necessarily on the plaintiff. Reliance upon the judgment in ***Jaipal vs. Hari Dass and others, 2017 (1) Law Herald 539*** that the additional evidence should be allowed to be led is also not acceptable as a perusal of the application for additional evidence would go on to show that it is the case itself that the copies of the cheques duly attested by the notary were already on record. In the application, it was further averred that the plaintiff wants to prove the said documents in rebuttal evidence. Additional evidence is only to be allowed where it could not be led earlier due to unavoidable circumstances being not available or could not be produced at the time when parties were to lead evidence. It is not to be allowed in routine as such at any stage where the parties wish to bring on record the evidence

especially once the plaintiff was fully aware of the defendants' plea which they had taken and the evidence which they had to lead the onus of which was on the plaintiff itself.

Accordingly, finding no merit in the present revision petition, the same is dismissed.

23.03.2018
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(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking	Yes/No
Whether reportable	Yes/No