

115

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

**CR No.3200 of 2018(O&M)
Date of Decision: 14.05.2018**

Paramjit Singh

.....Petitioner

Vs

Hardeep Singh and another

....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

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

RAJ MOHAN SINGH, J. (Oral)

The petitioner has preferred this revision petition against the order dated 11.04.2018 passed by the Additional Civil Judge, Senior Division, Payal, District Ludhiana vide which the application under Order 18 Rule 3 readwith Section 151 CPC has been declined.

The petitioner sought production of documents by way of additional evidence on the ground that the total suit property is 2 Kanals 6 Marlas whereas the same was wrongly recorded by the revenue official in revenue record as 2 Kanal 16 Marlas. The application for correction of revenue record was accepted. The plaintiff sought to produce certified copy of the application, Order and *jamabandi*.

Initially for the same relief, the application was moved at the rebuttal stage. The prayer was declined as the plaintiff can not

lead evidence in rebuttal in respect of an issue, the onus of which was on the plaintiff himself. The said order has already attained finality. The case is fixed for arguments. The plaintiff has availed number of opportunities even during the course of leading plaintiffs' evidence. The evidence of the plaintiff was closed.

The prayer for leading evidence in rebuttal was declined at the threshold of legal requirement. There is a difference between the additional evidence and rebuttal evidence. The additional evidence has to be in the context of the fact and within the knowledge of the party and the same could not be known despite due diligence, whereas rebuttal evidence is in the context of an issue which was already within the knowledge of the party and the party reserved its right to lead evidence in rebuttal. For want of such reservation, the case of the plaintiff/petitioner was not considered at the relevant stage of leading evidence in rebuttal. Now for the same relief, an application for additional evidence has been filed. The Trial Court has declined the prayer.

In the light of observation made in the case of **Ram Kumar Versus Raj Kumar and others; 2014 (3) CivCC 453** and **M/s Shree Sangmeshwar Mahadev Gramo Udyog Mandal versus Ajmer Singh and another; 2014 (4) Law Herald 3627**; the additional evidence cannot be allowed.

In such eventuality, particularly, when on the same cause of action, the prayer for leading evidence in rebuttal was declined as

the plaintiff/petitioner wanted to adduce evidence in respect of an issue, the onus of which was of the plaintiff/petitioner.

Having considered, the submissions made by the learned counsel for the petitioner, I deem it appropriate not to grant any indulgence in the aforesaid context.

Resultantly, this revision petition is found to be totally devoid of any merits and the same is dismissed, accordingly.

14th May, 2018
shabha

(RAJ MOHAN SINGH)
JUDGE

<i>Whether speaking/reasoned</i>	Yes
<i>Whether reportable</i>	Yes/No