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IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

Civil Revision No.3787 of 2016 (O&M)  
Date of Decision: 13.09.2018

Parmod Kumar

.....Petitioner

Vs

Bhagat Singh

....Respondent

**CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH**

Present: Mr. Tushant Deep Garg, Advocate  
for the petitioner.

None for the respondents.

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**RAJ MOHAN SINGH, J.**

[1]. Petitioner has assailed the order dated 11.05.2016 passed by the Civil Judge (Sr. Divn.) Patiala, whereby application for leading evidence in rebuttal or in the alternative for adducing additional evidence by way of examining Handwriting and Fingerprint Expert was dismissed.

[2]. Plaintiff/petitioner seeks to adduce evidence in rebuttal in respect of an issue, the onus of which was upon the plaintiff himself. Such a prayer cannot be granted in view of **Surjit Singh and others vs. Jagtar Singh and others, 2007(1) R.C.R. (Civil) 537 DB** and **Jagdev Singh and others vs. Darshan Singh and others, 2007(1) R.C.R. (Civil) 794.** and **Avtar Singh vs. Baldev Singh, 2015(1) PLR 230.**

[3]. Faced with the situation, learned counsel for the petitioner submitted that twin prayers were made by the petitioner either to allow him leading evidence in rebuttal or in alternative for granting permission to adduce additional evidence by way of examining the Handwriting and Fingerprint Expert.

[4]. The evidence of the plaintiff was concluded and was closed by the order of the Court. The said order was never assailed by the plaintiff/petitioner. The evidence of the plaintiff was closed on 23.07.2015 after availing sufficient opportunities.

[5]. In the written statement factum of agreement to sell dated 08.12.2010 was specifically denied. For leading evidence in rebuttal, the plaintiff submitted that the defendant during his cross-examination has denied his signature on the agreement to sell dated 08.12.2010.

[6]. Perusal of the written statement would show that the plaintiff was very much in the knowledge of the fact that the defendant had already denied his signature on the said agreement to sell dated 08.12.2010.

[7]. As regards permission to lead additional evidence, learned counsel for the petitioner placed reliance on CR No.1836 of 2017 titled **'Chhatar Pal vs. Sanjeev Kumar and another'** decided on 09.03.2018.

[8]. Perusal of the aforesaid order would show that the indulgence granted by the trial Court was not interfered in the revision petition. The trial Court decided the application for additional evidence on the basis of facts involved therein.

[9]. In **Ram Kumar vs. Raj Kumar and others, 2014(3) CivCC 453**, it was held that examination of Handwriting Expert cannot be allowed to be examined in the rebuttal and even such type of prayer cannot be allowed by way of additional evidence as this was well within the knowledge of the petitioner at the time of leading his evidence in affirmative. It would amount to filling of lacuna under the garb of additional evidence by changing the heading of the relief.

[10]. The party cannot be allowed to fill lacuna by adducing additional evidence without satisfying the Court that the parameters on which the same evidence could not be led, is required for effective adjudication of the case. Having failed to lead his evidence in affirmative and in rebuttal, the plaintiff cannot resort to the application under Order 18 Rule 17-A CPC, as the same would have the effect of filling lacuna and would be in negation to the order vide which leading of evidence in rebuttal was declined.

[11]. In **M/s Shree Sangmeshwar Mahadev Gramo Udyog Mandal vs. Ajmer Singh and another, 2014(4) Law Herald**

3627, it was held that the additional evidence cannot be allowed, when the evidence was within the knowledge of the plaintiff at the time of leading evidence in affirmative. No such satisfaction can be made with regard to the fact that the evidence in question was not within the knowledge of the plaintiff at the time of leading the evidence in affirmative. The discretion and inherent powers of the Court cannot be exercised in the given situation, particularly when the same relief in the form of adducing evidence in rebuttal cannot be permitted.

[12]. This Court will not allow indirect method of bye-passing the legal position meant to answer the leading of evidence at the stage of rebuttal. In my considered opinion, grant of such prayer would be in negation to the concept of leading evidence at the stage of rebuttal as decided by the Hon'ble Division Bench of this Court in Surjit Singh and others; Ram Kumar and M/s Shree Sangmeshwar Mahadev Gramo Udyog Mandal's cases (supra).

[13]. For the reasons recorded hereinabove, I find no justification in interfering in the impugned order passed by the trial Court. This revision petition is accordingly dismissed.

September 13, 2018

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Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)  
JUDGE

Yes/No

Yes/No