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

**Civil Revision No.3410 of 2018(O&M)
Date of Decision: 23.10.2018**

Manpreet Kaur and another

.....Petitioners

Vs

Amarpreet Singh and others

....Respondents

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

Present:Mr. Vikas Cuccria, Advocate
for the petitioners.

Ms. Alka Sarin, Advocate
for the respondents.

RAJ MOHAN SINGH, J. (Oral)

[1]. Petitioners have assailed the order dated 20.04.2018 passed by Civil Judge (Senior Division), Chandigarh vide which prayer for leading evidence in rebuttal was dismissed.

[2]. Plaintiffs filed a suit for cancellation of gift deeds dated 07.09.2001, 24.01.2002 and 22.04.2002 executed by Rashbeg Singh in respect of House No.22, Sector 9, Chandigarh in favour of defendants No.1 to 3. Plaintiffs relied upon family settlement (undated) in the pleadings of the plaint.

[3]. Defendants contested the suit and denied the very

execution of family settlement.

[4]. Plaintiffs concluded their evidence and after conclusion of evidence of the defendants, plaintiffs moved an application for leading evidence in rebuttal in respect of family settlement without mentioning the exact issue under which he wanted to discharge the onus.

[5]. Learned counsel for the petitioners submitted that the defendants are in possession of family settlement and defendant No.1 was confronted with family settlement in his cross examination.

[6]. Family settlement was a mark document. As on date, there was no application for production of family settlement, nor any application was moved for leading secondary evidence by the plaintiffs.

[6]. It is a settled principle of law that the plaintiffs cannot lead evidence in rebuttal in respect of an issue, the onus of which was on the plaintiffs themselves. Reference can be made to **Surjit Singh and others vs. Jagtar Singh and others, 2007 (1) RCR (Civil) P&H 537 (DB); Jagdev Singh and others vs. Darshan Singh and others, 2007(1) RCR (Civil) 794 (DB)** and **Avtar Singh vs. Baldev Singh, 2015(1) PLR 230.**

[7]. Perusal of the issues would show that onus of issues No.1 to 3 was on the plaintiffs. These issues were never drafted

in the context of any family settlement. Issue No.4 was to the following effect:-

“Whether plaintiffs have concealed the material facts from this Hon'ble Court, if so, its effect? OPD

There was no such issue of family settlement sought by the plaintiff at the time of framing of issues.

[8]. For the reasons recorded hereinabove, there is no scope for interference in this revision petition. There is no error of jurisdiction in the impugned order dated 20.04.2018 passed by Civil Judge (Senior Division), Chandigarh. This revision petition is accordingly dismissed.

October 23, 2018

Prince

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No