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

CR No.3972 of 2018

Date of Decision: 02.07.2018

Gurcharan Singh and others

....Petitioners

Vs

Sukhmander Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Siddharth Gupta, Advocate,
for the petitioners.

RAJ MOHAN SINGH, J.(Oral)

1. Evidence of the plaintiffs-petitioners was closed by order of the Court despite the fact that they have already moved an application for depositing diet money of the witnesses. Despite deposit of amount towards diet money, evidence of the plaintiffs-petitioners was closed against which no challenge was made by the petitioners.

2. Thereafter, plaintiffs-petitioners were allowed to lead evidence in rebuttal by the trial Court vide order dated 10.08.2016 as they wanted to examine Handwriting and Fingerprint Expert to examine thumb impressions of Waryam Singh on receipt dated 06.02.2006.

3. The said order was assailed by respondent No.1-

Sukhmander Singh @ Sukhdev Singh in Civil Revision No.5601 of 2016. The said revision petition was allowed by a Co-ordinate Bench of this Court vide order dated 25.10.2017 and order dated 10.08.2016 passed by the trial Court was set aside.

4. Since the leading of rebuttal evidence was declined, thereafter, the plaintiffs-petitioners filed an application for leading additional evidence on the same fact i.e. to seek examination of thumb impressions by expert witness.

5. I have considered the prayer made by the plaintiffs-petitioners.

6. Once the plaintiffs led evidence on the issue, the onus of which was upon themselves and the same was disproved by the defendants, then the plaintiffs-petitioners cannot lead other evidence to impeach credit of fact which has already been disproved by the defendants.

7. Plaintiffs-petitioners have asserted the fact that respondent No.1 has executed a document after receiving certain amount and signed the same in presence of witness namely Kikkar Singh. The onus of aforesaid fact was upon the defendants and the defendants have already examined the said witness namely Kikkar Singh and he has denied the signatures upon the document.

8. Now the plaintiffs-petitioners have again moved an

application after rejection of their prayer for leading evidence in rebuttal. Once the fact has already been disproved by the defendants and the same was never the question of fact in the suit, the prayer herein cannot be considered. Additional evidence can only be allowed when the production of evidence was not previously known or could not be produced despite due diligence by the plaintiffs.

9. Necessarily, the question of fact must be the issue of fact in the suit itself. Kikkar Singh has denied his signatures and the same was never the question of fact and does not fall within the purview of additional evidence.

10. After dismissal of prayer for additional evidence, no such prayer can be entertained in the form of additional evidence.

11. No fault can be noticed in the impugned order.

12. This revision petition is accordingly, dismissed.

02.07.2018
Jyoti Yadav

(RAJ MOHAN SINGH)
JUDGE

1. Whether speaking/reasoned : Yes/No

2. Whether reportable : Yes/No