

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

**CR No.4584 of 2018
Date of Decision: 01.08.2018**

Joginderpal Singh

.... Petitioner

Versus

Mohinderpal Singh (dead) through LRs and others

...

Respondents

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

Present: Mr. K.S. Rekhi , Advocate
for the petitioner.

RAJ MOHAN SINGH, J. (Oral)

[1]. Petitioner has assailed the order dated 15.05.2018 passed by Civil Judge (Junior Division), Ajnala District Amritsar vide which application under Section 151 CPC for leading additional evidence filed by the petitioner was dismissed.

[2]. Plaintiff filed a suit for declaration to the effect that he is owner in possession of the suit land. By way of application for leading additional evidence, he sought comparison of signatures of defendant No.1 on Ex.P2 with Exs.P5 to P12. Declaration

was sought on the basis of exchange deed dated 10.05.1979 executed by the plaintiff, Parkash Kaur and defendant No.1 in respect of property situated in villages Kohali and Kawen. The exchange deed was allegedly executed and handed over to Patwari for sanctioning the mutation in favour of the parties. Mutation No.1329 was sanctioned in respect of property in village Kawen and mutation of village Kohali was not sanctioned. The stand of the Patwari was to the effect that exchange deed was lost in the revenue papers. Plaintiff further alleged that thereafter, a new exchange deed was executed on 24.09.1992 in respect of properties of both the villages and the same was sanctioned by the plaintiff, defendant No.1 and Parkash Kaur in the presence of attesting witnesses. Defendant No.1 has denied the factum of exchange deed dated 24.09.1992 in his written statement. Defendant No.1 executed sale deed in favour of his son Satnam Singh on 12.03.2007. Again sale deed was executed by defendant No.1 in favour of his son Gurnam Singh on 14.07.2010. Defendant No.1 also executed general power of attorney in favour of his son Satnam Singh on 14.07.2010 and also in favour of Amandeep Singh on 04.08.2010. Sale deeds Exs.P5 to P12 are already on record. Defendant No.7 Gurnam Singh has admitted the aforesaid facts in his cross examination and identified the signatures of his

father.

[3]. Now the plaintiff/petitioner seeks to lead expert evidence in rebuttal in respect of an issue the onus of which was on the plaintiff himself. Defendant No.1 in his written statement has denied the exchange deed. It was legally obligatory on the part of the plaintiff to lead evidence in affirmative in the light of plea of denial raised by defendant No.1 in the written statement. No such course was adopted by the plaintiff while leading evidence in affirmative.

[4]. In view of **Surjit Singh and others Vs. Jagtar Singh and others, 2007(1) RCR (Civil) 537 DB, Jagdev Singh and others Vs. Darshan Singh and others, 2007(1) RCR (Civil) 794** and **Avtar Singh Vs. Baldev Singh, 2015(1) PLR 230**, the plaintiff cannot lead evidence in rebuttal in order to discharge the onus which was fastened upon him at the time of leading evidence in affirmative. Handwriting expert cannot be allowed to be examined in rebuttal and even cannot be allowed to be examined by way of additional evidence under the garb of rebuttal evidence in view of ratio laid down in **Ram Kumar Vs. Raj Kumar and others, 2014(3) CivCC 453** and **M/s Shree Sangmeshwar Mahadev Gramo Udyog Mandal Vs. Ajmer Singh and another, 2014(4) Law Herald 3627.**

[5]. For the reasons recorded hereinabove, no

indulgence can be granted in favour of the petitioner. This revision petition is accordingly dismissed.

August 01, 2018
Prince

(RAJ MOHAN SINGH)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No