

In the High Court of Punjab and Haryana at Chandigarh

235

CR No.5087 of 2017 (O&M)

Date of decision: 29.11.2018

SMT. MUKESH

.....petitioner

Versus

RAM KISHAN AND OTHERS

.....respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr.Sanjiv Kumar Yadav, Advocate for
Mr.A.K.Kansal, Advocate,
for the petitioner.

Mr.Abhimanyu Kalsi, Advocate for
Mr.Manoj Kumar Palwal, Advocate
for the respondents.

RAJ MOHAN SINGH, J.(oral)

Petitioner has assailed the order dated 19.7.2017 passed by Civil Judge (Jr.Divn.) Jhajjar vide which application filed by the plaintiff for additional evidence was allowed.

Apparently, evidence of the plaintiff was closed by order of the Court on 25.8.2015. The said order was never assailed by the plaintiff in any forum. It appears that under the garb of additional evidence, the plaintiff seeks to by pass the rigor of order dated 25.8.2015 vide which evidence of the plaintiff was closed. After closure of the plaintiff's evidence, even defendants have also concluded their evidence. At the stage of rebuttal, the present application came to be filed.

It is a settled principle of law on the strength of **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 that the plaintiff cannot be permitted to lead evidence in rebuttal in respect of an issue, the onus of which was on the plaintiff himself. Secondly, in view of ratio of **Chand Singh vs. Naranjan Singh and another 1990 (1) SimLJ 292**, the additional evidence cannot be permitted in the absence of any challenge made to the order vide which evidence of the plaintiff was closed by order of the Court. On both the counts, the prayer of the plaintiff for additional evidence cannot be entertained.

For the reasons mentioned hereinabove, I find force in the arguments of learned counsel for the petitioner.

Accordingly, this revision petition is allowed. Impugned order dated 19.7.2017 is set aside. Normal consequences to follow.

November 29, 2018
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(RAJ MOHAN SINGH)
JUDGE

Whether reasoned/Speaking

Yes/No

Whether reportable

Yes/No